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MEAT PACKER

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HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS
FIRST SESSION

ON

H. R. 14, by Mr. Haugen
H. R. 232, by Mr. Anderson
H. R. 5034, by Mr. McLaughlin (Nebr.)
H. R. 5692, by Mr. Williams

MAY 28 AND JULY 19, 1921

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COMMITTEE ON AGRICULTURE.

HOUSE OF REPRESENTATIVES.

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MEAT PACKER.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Saturday, May 28, 1921.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Thompson, Mr. Clague, Mr. Jacoway, Mr. Aswell, Mr. Kincheloe, Mr. Jones, Mr. Ten Eyck.

The CHAIRMAN. The committee has met this morning to give consideration to a number of suggestions and amendments that have been offered to the bill H. R. 6320, which is now under consideration by the House.

Mr. ASWELL. I would like to ask for some information. I was informed yesterday that all of the farm organizations requested this hearing. I would like to know if all the farm organizations are represented here by individuals this morning; who are here to be heard?

The CHAIRMAN. So far as I know, the only organization requesting this hearing was Mr. Marsh, of the Farmers' National Council.

Mr. ASWELL. Who represents them here this morning?

The CHAIRMAN. Mr. Lyman, Mr. Marsh, and Mr. Atkeson are here.

The CHAIRMAN. With the permission of the committee, I would suggest that a communication which I have here be incorporated in this hearing; also a telegram.

(The communications referred to are as follows:)

WASHINGTON, D. C., *May 25, 1921.*

Hon. GILBERT N. HAUGEN,
Chairman Agriculture Committee, House of Representatives.

DEAR SIR: We, the undersigned, as authorized representatives of national organizations of farmers, of consumers, and of labor, have carefully examined the provisions of the Haugen bill (H. R. 6320) to regulate the interstate and foreign commerce in live stock, packing-house products, dairy products, etc., and we urgently protest that this bill in its present form is inadequate and needs important revision before it can command our confidence or support.

While we are in full sympathy with the object of the bill and recognize the earnest efforts that have been put into it by the committee, it as now reported falls seriously short of obtaining its objects for the reasons here set forth.

1. The most crying need of the live-stock producers and of the consumers of meats and other live-stock products is for authoritative current public information made possible, through the medium of uniform accounting systems, on the industry, on the state of the markets, on the costs and profits of the packers and other agencies operating between the producer and the consumer. We believe that, unless information of this character is specifically provided for, it will be impossible to secure that state of public confidence that is so sorely needed in this industry. This the Haugen bill does not do in its present form.

2. The bill inadvertently, we believe, but yet surely, takes the packers out from under the Sherman law and the antitrust acts, while leaving other industries still under the penalties of those laws. The packer legislation considered by the recent and present committees of Congress is in the nature of supervision of the industry.

It is frankly directed at some degree of administrative oversight of the business of the large packers, and it primarily relies on the supervision of these organizations rather than on the Sherman law. Nevertheless, it would be a sorry outcome of the investigation and of the consent decree to relieve these five great packing companies from the Sherman law. The new legislation, until its operation has been successfully tried out, should not be left to stand alone. The antitrust act should be retained in the background unimpaired. The Haugen bill appears to preserve the antitrust laws, but its phrasing is so defective as to really destroy those laws as far as the packers are concerned.

Certain practices, conspiracies, agreements, etc., are made unlawful for packers by the Haugen bill and other practices are made unlawful by other bills. We believe that these enumerated practices in the different bills should be carefully correlated, the best provisions selected, and all of them tested as to the criterion of proof required, remembering that proof of intent is difficult. This makes it all the more necessary not to abandon the Sherman law until it is found how the courts will function on these new provisions.

3. The Federal Trade Commission performed the single service to the country, to producers and consumers, and to the packing industry itself in its investigation of the packers; and all of the organizations we represent have again and again indorsed the public service rendered by the commission and expressed their confidence in it. We, therefore, emphatically object to any curtailment or limitations of the powers of that body.

Whatever active agency is provided for administering the proper legislation, we insist that the Federal Trade Commission and the Federal Trade Commission act be retained unimpaired and ready for service at the call of the President or either House of Congress should the emergency arise. Like the Sherman law it should stand in the background as a bulkwark until the new machinery has been tested and its efficiency and adequacy proven. If the bill is carefully drawn, this does not necessitate any duplication of effort or useless governmental expenditures.

4. The Haugen bill does not measure up to the needs of the times in that it does not provide for any constructive improvement in the system of marketing live stock and meat food products. Our system of marketing of commodities in general does not stand the test of efficiency and low cost. Whatever the efficiency of the meat packers, there is great need of improvement in lessening the outrageous spread in price between what the farmer receives for his stock and what the products cost at the consumers' table. We therefore urge two forward looking and constructive steps: (*a*) Adequate provision in the bill for farmers' cooperative live-stock commission firms operating in the stockyards under governmental supervision; (*b*) voluntary registration of stockyards, abbatoirs, and warehouses to secure all possible improvements in the marketing, slaughtering, processing, and storage systems, by means of nonfinancial Federal aid on the self-help principle.

These are our principal reasons for asking that your committee give further consideration to the bill before pressing for its consideration on the floor of the House or its passage in its present form. We believe that the packers can not reasonably object to the provisions we have above urged, and that those provisions are necessary to make the legislation effective or worth passing.

Respectfully submitted.

George P. Hampton, managing director the Farmers' National Council; Edward F. McGrady, legislative representative the American Federation of Labor; Charles A. Lyman, secretary National Board of Farm Organizations; Benjamin C. Marsh, executive secretary People's Reconstruction League; Ed C. Lasater, member legislative committee for Live Stock; Mabel C. Costigan, National Consumers' League; T. C. Atkison, representative National Grange; H. E. Wills, assistant grand chief engineer and national legislative representative Brotherhood of Locomotive Engineers; P. J. McNamara, vice president, national legislative representative Brotherhood of Locomotive Firemen and Engine men; W. M. Clark, vice president and national legislative representative Order Railway Conductors; W. N. Doak, vice president, national representative Brotherhood of Railway Trainmen.

NEW YORK, N. Y., *May 27, 1921.*

MRS. EDWARD P. COSTIGAN,
Munsey Building, Washington, D. C.:

Letter and inclosure received; please sign for National Consumers' League.

FLORENCE KELLEY.

(Referring to the statement presented to Chairman Haugen on May 26, 1921.)

Mr. JACOWAY. Could we not just take up the bill and see what it is they want to amend?

Mr. ASWELL. I was told on yesterday that Mr. Barrett, of the Farmers' Union, and representatives of the farm bureau, and all those people would be here this morning.

The CHAIRMAN. They have all been invited.

Mr. LYMAN. I have here a letter signed by Mr. Barrett——

Mr. ASWELL (interposing). What does he say?

Mr. LYMAN. It is a letter addressed to Mr. Haugen, the chairman of this committee, signed by Mr. Barrett and several others representing different organizations.

The CHAIRMAN. There is one suggestion made by the farm bureau that on page 28, line 12, there be added these words, "and in any case where the Federal Trade Commission is directed to investigate by the President or either branch of Congress." Another amendment suggested is, on page 1, line 8, after the word "and," insert the words "cooperative or other," and also that on page 25, line 14, after the word "Secretary," strike out the word "may" and insert the word "shall."

Mr. ASWELL. I have asked my question twice and I have not gotten an answer. But let it go.

The CHAIRMAN. Kindly answer the question, Mr. Lyman.

STATEMENT OF MR. A. LYMAN, SECRETARY NATIONAL BOARD OF FARM ORGANIZATIONS, WASHINGTON, D. C.

Mr. LYMAN. Mr. Chairman, I think you have already referred to the request signed by a number of organizations. In support of that I have here a letter signed by Mr. Charles S. Barrett, president of the Farmers' National Union; Mr. John A. McSparran, master of the Pennsylvania State Grange; Mr. J. H. Kimble, legislative agent of the Farmers' National Congress; and Mr. C. W. Holman, acting secretary of the National Milk Producers' Association. These gentlemen met last night at our headquarters at a meeting of the executive committee. They were all forced to leave the city except Mr. Holman. That request reads as follows:

MAY 27, 1921.

Hon. GILBERT N. HAUGEN,
Chairman House Committee on Agriculture, Washington, D. C.

DEAR MR. HAUGEN: On May 25 a joint letter from farm and labor and consumers' organizations was sent to you protesting against the passage in its present text of the packer-control bill (H. R. 6320) and asking the recognition of certain principles in any legislation that may be passed. We, the undersigned, ask that you include our signatures to that letter, as it meets with the views, as we understand them, and the policies laid down in connection with meat packer control of the organizations we represent.

Respectfully submitted.

C. S. Barrett, president Farmers' National Union; John A. McSparran, master Pennsylvania State Grange; J. H. Kimble, legislative agent Farmers' National Congress; C. W. Holman, acting secretary National Milk Producers' Federation.

Mr. TINCHER. Does that letter refer to the amendment that the chairman has just stated?

Mr. LYMAN. That letter is referring to a letter which was given to Mr. Haugen on yesterday morning, signed by all of the farmers' representatives in Washington, with the exception of the American

Farm Bureau Federation. But Mr. Howard came in near the close of the hearing and suggested that he had received instructions from the live-stock committee of fifteen at Chicago to come to Washington and work with several representatives of the live-stock committee of fifteen, also in cooperation with the Secretary of Agriculture, and he suggested, as you will recall, Mr. Haugen, several important amendments.

Mr. VOIGT. I want to suggest to you that we are not getting anywhere by discussing what was done last night. Let us see who has come here and what they want.

Mr. TINCHER. I want to confine this hearing to the amendments they suggest.

The CHAIRMAN. Absolutely.

Mr. KINCHELOE. How long is this hearing going to continue?

The CHAIRMAN. It is suggested that it continue for one hour. What shall be the time limit?

Mr. TINCHER. Some of these amendments were suggested on the floor.

The CHAIRMAN. We will take up the amendments, and discuss them as we go along.

Mr. VOIGT. I submit that before Mr. Silver starts we ought to know how long we are going to sit here and conduct this hearing.

Mr. ASWELL. Let us limit each speaker, so there will be no misunderstanding.

Mr. JACOWAY. I am not in favor of limiting this hearing this morning. I know it is the object of every man on this committee whom I have talked to to get as nearly a perfect bill as it is possible to carry on the floor of the House when we begin discussing the bill under the 5-minute rule. If we have provisions that need ironing out, or amendments that ought to be added to strengthen the bill, I am in favor of hearing anybody as long as there is anybody to discuss the matter in reference to amendments to the bill, and I do not believe these amendments can be covered within an hour. I think this is one time in the history of packer legislation when, instead of limiting time, we ought to give full and ample time.

The CHAIRMAN. This committee, in Sixty-sixth Congress, had 40 days of hearing on the subject, and the doors of the committee room have been open day and much of the night for over two years. We can go on and pass this legislation, or we can continue the hearings and defeat it. It is up to the committee. We could either go on and pass this legislation or else defeat it by continuing the hearings indefinitely.

Mr. JACOWAY. I did not mean that.

The CHAIRMAN. I know you did not have that in mind.

Mr. JACOWAY. If it takes all day, I am in favor of hearing these gentlemen.

Mr. ASWELL. I did not mean to cut off discussion, but I think every gentleman who desires to appear before the committee this morning has been heard over and over again during the hearings we had for 45 days in the last Congress and 10 days at this session and, the hearings having extended over two years. I am willing to do anything necessary to give all the hearings necessary, but it seems to me that if we are going to do anything with this legislation you have got to get down to business.

The CHAIRMAN. The only question is whether we are going to legislate. If these gentlemen have anything to suggest, if they have any amendments which they wish to offer and discuss, we will be glad to hear them.

Mr. ASWELL. We will give you all the time you need.

STATEMENT OF MR. GRAY SILVER, WASHINGTON, D. C., REPRESENTING THE AMERICAN FARM BUREAU FEDERATION.

Mr. SILVER. Mr. Chairman, first I want to congratulate you for the good bill you have brought out. We think it is a good bill, but in reading it over, after it was fully formulated, we believe there are a few things that might be added that might be helpful in clarifying the measure, and I will call attention to those very briefly.

On page 1, line 8, after the word "and," we suggest that the words "cooperative or other" be inserted.

The CHAIRMAN. Your contention is that that will make it clear that the cooperative associations are included?

Mr. SILVER. Yes, sir; to make it include both kind of associations.

Mr. JACOWAY. I wish you would read that part of the bill in the way in which it would read if amended as you desire.

Mr. SILVER. It would read in this way:

The term "person" includes individuals, partnerships, corporations, and cooperative or other associations.

Mr. TINCHER. Did some one suggest that the word "associations" would not cover cooperative associations?

Mr. SILVER. That was the thought. Personally, I do not agree with that.

The next amendment we suggest is on page 25, line 14, after the word "Secretary," strike our the word "may" and insert the word "shall."

Mr. ASWELL. Why?

Mr. SILVER. We think that it is entirely optional there, and it is thought it would be desirable to make it mandatory under those circumstances.

The CHAIRMAN. May I ask you this question? If we substitute the word "shall" for the word "may," would you not suggest that we add before the word "to," in line 17, the word "willfully," so that it would read "who failed willfully to keep such accounts," etc.? Is it not making it pretty strong to say that the Secretary shall do those things, and if somebody without knowledge of the establishment of such an order did those things he might be liable to the penalties provided?

Mr. SILVER. Personally I believe the words "may" and "shall" in the sense they are used there are synonymous terms, but some of our people think they would prefer to have the word "shall" in there.

The CHAIRMAN. If the word "may" is left there, that is leaving it to the discretion of the Secretary, and we must place some confidence in the Secretary.

Mr. SILVER. The whole bill largely rests with the Secretary.

The CHAIRMAN. If you substitute the word "shall" for the word "may," it would be compulsory upon the Secretary of Agriculture

to require those books to be kept in that way without giving them a fair chance.

Mr. SILVER. I hardly think it would do that, and I think he would have discretion enough to install that in part or in full, as he might decide, and I think he ought to have that discretion.

Mr. MCLAUGHLIN of Michigan. This thought occurs to me: In many respects, all the persons and companies covered by this act are doing quite a similar business, but in some respects they are doing lines of business which are different. Would you require a uniform system of accounting for all of those companies and make it mandatory that everyone shall, in all respects, conform to the one plan?

Mr. SILVER. I do not understand that that would do that, Mr. McLaughlin. I did not mean it to have that effect; it may if the Secretary sees fit to do that.

Mr. MCLAUGHLIN of Michigan. What would be the value of the Secretary prescribing in each particular case the way they should keep their books? It is quite a job to prescribe the manner of doing that for each company, no matter what its character of business, to have him go in and make it mandatory upon him to prescribe the methods of keeping their books.

Mr. TINCHER. I want to call attention to how important this is. The bill provides that "Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept." It provides, as you see, that the Secretary may do so and so, and it seems to me that the substitution of the word "shall" for the word "may" does not change the situation at all, because whenever the Secretary finds such a condition, he is going to require this, whether the word "may" or "shall" is used. It looks to me as if it is a case of hunting pretty hard for something to criticize in the bill.

The CHAIRMAN. This subject has been discussed very fully by the committee, and the bill carries a penalty of $5,000 fine or imprisonment for not more than three years, or both, and it seems to me it is quite a drastic proposition to say he shall do a thing in a case of this kind.

Mr. TINCHER. It seems to me that changing the language from "may" to "shall" will weaken the bill, because the Secretary, under the provisions of the bill, now has a right to say to these people: "You are not keeping your accounts and records fully enough to disclose all your transactions, and if you do not do it, I will do so-and-so." If you change the language from "may" to "shall" the only possible effect would be that the Secretary would not dare say that unless he was very sure about it, so it seems to me changing the word from "may" to "shall" would weaken the bill.

The CHAIRMAN. Are you insistent upon that amendment?

Mr. SILVER. I am presenting our wishes for you consideration. That is our thought on the subject.

Mr. KINCHELOE. You really think there is not much difference, do you?

Mr. SILVER. Personally I think the words are synonymous, but I am submitting this on behalf of our group.

The CHAIRMAN. What is your other amendment?

Mr. SILVER. The other amendment is on page 28, line 12, at the end of the line, to add the words, "and in any case where the Federal Trade Commission is directed to investigate by the President or either branch of Congress."

Mr. TINCHER. What is the object of that?

Mr. SILVER. The object of that is to clearly maintain the right of the President or either branch of Congress and so give notice, that upon their action the Federal Trade Commission does have the legal right to do any investigating they desire.

Mr. ASWELL. There is not any doubt about that now, is there?

Mr. SILVER. Some people think there is.

Mr. ASWELL. It seems to me it does not change it a particle.

Mr. SILVER. I am only submitting the change that our group desires to be made.

Mr. ASWELL. Does not Congress have full power to direct any agency of the Government to do that?

Mr. TEN EYCK. There is one question I would like to ask in reference to the Federal Trade Commission, and that is would they have the right under this bill to go ahead without the direction of Congress or the President?

Mr. TINCHER. They would not without this bill.

Mr. SILVER. Gentlemen, that is as far as we care to go in the matter.

The CHAIRMAN. If these amendments are agreed to, will that meet your approval?

Mr. SILVER. It will.

The CHAIRMAN. The unqualified approval of your organization?

Mr. SILVER. It will when these amendments are made.

Mr. KINCHELOE. Was this conference that you had with the representatives of your organization, including yourself and the other gentlemen, held upon the initiative of you gentlemen only, or did the people you represent, the farmers of the country, bring any pressure to bear on you in reference to these amendments?

Mr. SILVER. After your bill was reported by the committee we sent a copy of it to every State federation and every farm bureau so that they might have first-hand information, and some of our groups thought it needed some clarifying, and this is the result of that.

Mr. KINCHELOE. You mean that they indicated in their communications which they sent back to you that these amendments were desirable?

Mr. SILVER. Yes; that they desired to have certain things made plainer.

Mr. KINCHELOE. Are these the things they wanted to clarify in the bill?

Mr. SILVER. Yes.

Mr. KINCHELOE. How many of your organizations did you hear from and in what States are those organizations located?

Mr. SILVER. This matter came to me from the Chicago office, from a meeting of the live-stock people at that place, and they made these suggestions, and Mr. Howard and others came over and stated that this is what they want.

Mr. KINCHELOE. Personally, you do not know how many requests came from the various organizations in the various States in reference to these changes?

Mr. SILVER. No; personally, I do not.

Mr. TEN EYCK. Did any of them come to you in Washington?

Mr. SILVER. Not to the Washington office, except through the Chicago office.

Mr. VOIGT. The bill was pretty generally satisfactory, was it not?

Mr. SILVER. Yes, sir.

Mr. ASWELL. Do you know where Mr. Howard got his suggestions?

Mr. SILVER. From the group of men meeting in Chicago, the live-stock people.

Mr. KINCHELOE. Mr. Howard did not tell you, and therefore you do not know how universal this view was that these changes should be made, and you do not know personally what part of the country they came from nor what organizations they came from, nor the States in which such organizations are located?

Mr. SILVER. I do not.

Mr. VOIGT. Personally, do you think all three of these changes are important to incorporate in the bill?

Mr. SILVER. Personally, I think the words "cooperative or other" on the first page are not needed, but since it makes it more satisfactory to some of our people I would like to see the word "cooperative" written in there in order to clarify it.

In the sense in which the word "shall" and "may" are used, I think they are synonymous terms.

Mr. KINCHELOE. In your last amendment you are saying that upon the order of the President or either branch of Congress the Federal Trade Commission may be designated to conduct an investigation. Suppose we do not put that amendment in and a condition should arise when Congress would think it necessary, in its wisdom, to investigate some particular line of packers' activities, and we were to pass a resolution for an investigation, and designate the Federal Trade Commission to do that, do you not think it would be done?

Mr. SILVER. Yes; whether you would designate the Federal Trade Commission or anybody else.

Mr. KINCHELOE. Suppose we were to designate the Federal Trade Commission?

Mr. SILVER. Absolutely.

Mr. KINCHELOE. Then of what account is that amendment?

Mr. TINCHER. The only trouble about it is that somebody will joke us about it.

Mr. MCLAUGHLIN of Nebraska. This question arises in my mind: There is not any doubt but that Congress could direct the Federal Trade Commission or any other body to make an investigation, but there is a question in my mind, under the wording of this bill, if taken in connection with the act creating the Federal Trade Commission, whether the President of the United States, if a sudden emergency arose, would have the power or authority, under the construction of this act, to direct the Federal Trade Commission to make some special investigation somewhere.

Mr. KINCHELOE. Would the President have the power to order an investigation without an act of Congress?

Mr. SILVER. He would, with that amendment.

Mr. KINCHELOE. With or without the amendment?

Mr. MCLAUGHLIN of Nebraska. Under the Federal Trade Commission act; but if this will make it clear that in some sudden emer-

gency the President would have the authority to direct a separate investigation, I can see where there is a reason for that contention.

Mr. SILVER. Our folks think it would be helpful. I think this is the most important amendment of the three I think it more important than the others.

I thank you, Mr. Chairman.

FURTHER STATEMENT OF MR. CHARLES A. LYMAN, SECRETARY OF THE NATIONAL BOARD OF FARM ORGANIZATIONS, 1731 I STREET NW., WASHINGTON, D. C.

The CHAIRMAN. You may proceed, Mr. Lyman.

Mr. LYMAN. Mr. Chairman, the group that has been meeting here for several days thought it would take about an hour or an hour and a half to present our reasons for certain amendments, and if we could have that length of time to present our case we would be very grateful to you. I say that to you because there may be some matters here that we do not lay as much stress on as on others, but it is conceivable that the discussion might take a whole lot of time. If we could go ahead without too much interruption until we could present our viewpoint and our reasons, then we will be glad to go into the discussion indefinitely.

I am not going to discuss all of these proposed amendments, but we have prepared here a number of copies of all the amendments which we have suggested.

The CHAIRMAN. Who is going to present the amendments?

Mr. LYMAN. I was just going to discuss one or two of them, and I would like to have Mr. Marsh and others discuss the other amendments.

Mr. KINCHELOE. Your organization has suggested the adoption of more amendments than these three which have already been presented?

Mr. LYMAN. We have actually incorporated certain things in the bill.

Mr. KINCHELOE. More than these three?

Mr. LYMAN. Yes; there are some more than those.

Mr. KINCHELOE. Then these organizations do not agree on these amendments at all?

Mr. LYMAN. I think that was explained at the beginning. I am speaking now only for the National Board of Farm Organizations.

Mr. KINCHELOE. The point I am getting at is for information. As I understand it, then, you gentlemen are not agreed on the amendments you offer?

Mr. LYMAN. I think we are substantially agreed.

Mr. THOMPSON. Does Mr. Silver approve all of your amendments?

Mr. LYMAN. I do not know about that.

Mr. THOMPSON. What about that, Mr. Silver?

Mr. SILVER. I testified that we did not care to go further than the three amendments we ask for, which I have submitted to the committee.

Mr. THOMPSON. Then your organization does not approve all these amendments?

Mr. SILVER. I have not read them all.

Mr. ASWELL. Who are included in the National Board of Farm Organizations?

Mr. LYMAN. It is a federation of a number of farm organizations.

Mr. ASWELL. Will you name them?

Mr. LYMAN. There is the Farmers' National Union, of which Mr. Barrett is president.

Mr. VOIGT. Did you follow the same practice that Mr. Silver referred to in connection with his organizations, by sending out copies of this bill to your different organizations?

Mr. LYMAN. We sent it out and got in touch with the members of out executive committee, and in addition to that the committee of fifteen, which was formed under the auspices of the American Farm Bureau Federation represents some of the organizations which belong to our board. It was during a meeting of the committee of fifteen, the live-stock committee, which you understand represents the actual producers of live stock, that the dissatisfaction with certain features of the bill arose, and a subcommittee, as I understand it, came down to Washington to look over this matter and to see whether or not some action could not be taken to clarify the bill.

Mr. ASWELL. These suggestions did not originate in your board or with the live-stock growers and the farmers?

Mr. LYMAN. We have been working for effective packer legislation for a long time.

Mr. ASWELL. I wish you would answer the question yes or no. Did the suggestions originate among your board members or among the live-stock growers and farmers of the country?

Mr. LYMAN. Both.

Mr. RIDDICK. I would like to know this, Mr. Chairman: We have spent six months considering this bill and framing this measure, and if we now come here and in a few hours make all these amendments would not we weaken our case before the House and make ourselves ridiculous as a committee?

The CHAIRMAN. As I said before, we can defeat this legislation by continuing the hearings.

Mr. RIDDICK. Suppose we accept the amendments which have been suggested and mark up the bill, after this hearing, and change our minds and reverse ourselves on these matters?

Mr. WILLIAMS. Some of these amendments seek to insert in the bill language that after lengthy consideration we struck out.

Mr. LYMAN. I have not seen these other amendments.

Mr. TEN EYCK. Mr. Chairman, the witness had just started to tell us whom he represents, and he got as far as the National Board of Farm Organizations. I would like to have him tell us whom else he represents.

Mr. THOMPSON. I think you said they represented 30 States; what 30 States do they represent? Do they represent the State of Ohio?

Mr. LYMAN. No, sir; the Farmers' Union is organized in the South and west of the Mississippi.

Mr. RIDDICK. Does it include Montana?

Mr. LYMAN. No.

Mr. KINCHELOE. Does it include Kentucky?

Mr. LYMAN. It has about 20,000 members in Kentucky.

Mr. THOMPSON. Are there any of the farmers in the State of Ohio in your organization?

Mr. LYMAN. Not in the Farmers' Union.

Mr. THOMPSON. Have you any similar organization there?

Mr. LYMAN. I was talking about the Farmers' Union. We have our organizations that have representatives and membership in Ohio, and we have organizations in every State.

Mr. TEN EYCK. Do you represent the several organizations is what we want to find out?

Mr. THOMPSON. So these federated organizations do have ramifications in every State in the Union?

Mr. LYMAN. Yes, sir. We were just discussing the Farmers' Union. But in addition to the National Farmers' Union, with its membership in the South and West, north of the Mississippi we have the National Milk Producers' Federation, which, in itself, is a federation, and that embraces milk marketing organizations from coast to coast. Then we have the Equity organizations, the three Equity organizations.

Mr. THOMPSON. Does that represent the farmers' elevators?

Mr. LYMAN. That is Mr. Drayton's organization; he is on our board, and there are some of them in Ohio, and also some milk men. Then we have one State grange, the Pennsylvania State Grange, with 82,000 members. We have also the organization of the Florida Citrus Exchange, and altogether there are 15 organizations. I have mentioned the outstanding educational organizations, what we call the self-help organizations, that started 15 or 20 years ago to put cooperation on the map, and they have pretty well succeeded in doing so.

Mr. Chairman, may I proceed to discuss these amendments?

The CHAIRMAN. Certainly.

Mr. LYMAN. We feel that the cooperative organizations should be included, and therefore we ask for this amendment on page 1: Omit lines 7 and 8 and substitute the following:

> The term "person" includes an individual, a partnership, a corporation, an association of two or more individuals, a joint-stock association, an estate, a trust, and the members of a partnership or the directors, officers, receiver, or other person or persons charged with the duty of the management and operation of the business of a corporation, partnership, association, joint-stock association, estate, or trust.

That is practically what has been suggested by Mr. Silver, except that we have done it in just a little different way. We have broadened the definition of the word "person," feeling that possibly it needed strengthening. We have made it include an individual, a partnership, a corporation, an association of two or more individuals, a joint-stock association. It seems that a joint-stock association is a little bit different from some other associations. There have been some cases fought out along that line.

The CHAIRMAN. What we have put in includes all associations under one head and thus avoiding the danger of leaving anybody out by specifying all under one head.

Mr. LYMAN. We think it would make it better to enumerate these. We have them enumerated there.

Mr. KINCHELOE. Do you think where there are as many as two or more individuals together that they ought to be regulated under this bill?

Mr. LYMAN. An association of two or more individuals would cover cooperative associations; some of the cooperative live-stock associations are rather small.

Mr. WILLIAMS. It would take two or more individuals to make an association, anyway.

Mr. LYMAN. Yes.

Mr. TINCHER. Do you think if it was necessary for the bill to specify all white men, it would be necessary to say all tall white men?

Mr. LYMAN. Of course not.

Mr. TEN EYCK. It says "individuals," and it means anyone from one up to any number.

Mr. LYMAN. We have enumerated them in the amendments, and we think it is rather important, in view of what might happen to include this language "the members of a partnership or the directors, officers, receiver, or other person or persons charged with the duty of the management and operation of the business of a corporation, partnership, association, joint-stock association, estate, or trust." We thought that was important. We think that covers the cooperative feature as fairly as it could be covered.

Now, the next amendment I wish to refer to is on page 17. We suggest the insertion of the following as section 307 (b):

> If any market agency participates in the enforcement of, or enforces, or carries out any rule, regulation, or practice of a live-stock exchange or similar organization of which he is a member, which is designed to prohibit, or has the effect of prohibiting membership in such organizations by a cooperative association of producers engaged in business similar to that of such member because of the method of distributing surplus earnings of such an association among its members, such action by the market agency shall be deemed an unjust, unreasonable, and discriminating practice.

The reason for doing that is that we do not think that the bill now covers the live-stock exchange, and that is where we have difficulty in our cooperative associations. It seems a very difficult matter to take care of live-stock exchanges as such, for the reasons which you gentlemen are pretty familiar with, I think.

This takes care of the practice which now exists in many of the live-stock markets of not permitting cooperative associations having membership, if they so wish, on those exchanges, the rules there being that they will not permit the return of patronage dividends. So we suggest that by making it an unjust, unreasonable, and discriminating practice for any member of a market agency which participates in the enforcement of, or enforces or carries out any rule or regulation or practice of a live-stock exchange or similar organization of which he is a member, which is designed to prohibit the return of these patronage dividends, these savings to the members—we feel that by doing that we have effectively controlled the live-stock exchange itself. That was the only way we felt that could be done effectively. We think that is very important indeed to have it explicitly understood that the returning of the savings which are effected through cooperative shipping shall be made possible.

Mr. WILLIAMS. On page 16, beginning with line 19, the committee thought they had taken care of that matter.

Mr. LYMAN. That would be true so far as the associations which simply ship in there are concerned, who are not members of the exchange, but if you try to enforce that on the exchange or on any association which was a member of the exchange they would say they had to enforce this rule because they could not otherwise get along.

Mr. McLAUGHLIN of Michigan. Suppose the Secretary of Agriculture should say that rule is not reasonable and should be set aside?

Mr. LYMAN. We went into that matter pretty carefully and we felt that it was rather doubtful whether or not the live-stock exchange, not having any property and not being in business as such, would be amenable to such a ruling by the Secretary of Agriculture. As I understand it, the object of these live-stock exchanges is to make rules which the members will live up to; that is, the concerns join for the purpose of making rules for themselves. They have not any property, are not doing any business, and they could just as well go across the line somewhere on Lake Michigan and make their rules and go back again, and it would be a pretty hard proposition.

Mr. ASWELL. They might be headed for the penitentiary if they do that under this bill.

Mr. LYMAN. We thought it was a rather important matter.

Mr. TINCHER. Do you not think it is strange that you have just now discovered it to be so important, because when you appeared before this committee before, not in any discussion did you ever suggest that we incorporate in a packer-control bill a provision of this kind in reference to cooperative associations on the exchange?

Mr. LYMAN. You will recall that I appeared before the drafting committee and urged that very strongly.

Mr. TINCHER. You did not appear before the general committee in regard to it. I never heard of it, and I do not know of a live-stock exchange now that denies membership to any cooperative association.

Mr. LYMAN. There are some.

Mr. TINCHER. The ones out my way do not, and for that reason I did not consider that.

Mr. LYMAN. The Equity Cooperative Association Exchange has a live-stock marketing department.

Mr. TINCHER. They are not denied membership, are they?

Mr. LYMAN. They are at Chicago. There may be some recent ruling at St. Paul which makes it possible.

Mr. TEN EYCK. Would not this bill give the Secretary of Agriculture the authority to insist upon their membership?

Mr. LYMAN. We did not think so, they way it stood.

Mr. JONES. What is the use of declaring it an unfair practice? Why not say they shall not deny membership on that ground?

Mr. KINCHELOE. We do say so on line 16, page 16.

Mr. JONES. If that is not sufficient, why not say affirmatively that they shall be permitted to be members? The bill does not quite say that, does it? The point I am getting at is, if you specify one thing as unfair practice, do you not, by inference, exclude other things as unfair practice?

Mr. LYMAN. I think the reason why we would like to have that change is this: Suppose there was a so-called cooperative association. I think the live-stock exchange has certain rights; they want to have certain control over their members; and I think there are many reasonable requests there. All we insist on is simply that they shall not exclude any cooperative association which has patronage dividends.

Mr. JONES. I think the gentleman was mistaken in saying that this is a provision which says that they shall not be kept out on that ground. It simply says that this paragraph shall not prevent them

coming in on that ground. Instead of having the paragraph you suggest, why not simply say that no exchange shall have any rule which forbids the membership of cooperative associations on that ground; instead of declaring it an unfair practice, just forbid it.

Mr. LYMAN. It is my impression that that might be held unconstitutional, because a live-stock exchange has certain things that must be lived up to.

Mr. JONES. You are declaring it to be an unfair practice, and you take two steps instead of one. What is the use of doing that? You declare that it is an unfair practice and that therefore it shall be forbidden. Why not say in the first place that it shall be forbidden?

Mr. LYMAN. If you think that will strengthen the bill and that it will produce the same result that we ask for, I do not think there will be any objection to it. We thought that this was the best way to do that.

The CHAIRMAN. Are you for this bill or against it; what is your position?

Mr. LYMAN. I feel there are some other matters here that ought to be explained. It is hardly fair for me to be asked to answer that question just now, until we bring out some other things, because our minds may be satisfied. The way we feel about it now is that without some of these amendments it would not be giving the protection which the farmers have asked for.

The CHAIRMAN. You are opposed to the bill, are you?

Mr. LYMAN. As it stands, without amendment.

The CHAIRMAN. What amendments do you want?

Mr. LYMAN. Mr. Chairman, I have covered two matters here and I was going to suggest now that I turn over the discussion of the other amendments to somebody else.

Mr. ASWELL. What is your opinion of this bill?

Mr. LYMAN. I explained to the chairman I did not feel it was quite fair to ask me to answer that until we present to you one or two other matters. It is possible that our minds would get more closely together in some other matters.

Mr. TINCHER. Are you opposed to packer regulation?

Mr. LYMAN. No, sir.

Mr. TINCHER. Are you opposed to its being in the Secretary of Agriculture?

Mr. LYMAN. We want to have effective packer legislation.

Mr. TINCHER. Are you opposed to its being in the Secretary of Agriculture.

Mr. LYMAN. No. sir; not if he has sufficient powers, and if there are other agencies in the background.

Mr. TINCHER. You say you represent the farmers, do you not? They have a big organization in Kansas.

Mr. LYMAN. Yes, sir.

Mr. TINCHER. Have you had any word from Kansas?

Mr. LYMAN. Yes, sir, we have talked this matter over with Mr. McAuliffe, who has been down here recently.

Mr. TINCHER. I have seen Mr. McAuliffe. Do you mean to tell me that McAuliffe is against this bill? You are speaking for the Farmers' Union, and my State has one of the largest organizations of farmers, with the largest membership.

Mr. LYMAN. I was asked a question which I feel is hardly a fair question to ask me to answer until we have gone through this whole discussion. I said I personally felt that the bill would not measure up——

Mr. JONES (interposing). That is not the question at all. The question is, If it is this bill or nothing, are you for this bill? You can answer that question now as well as at any other time, can you not?

Mr. LYMAN. I think we ought to try to improve it.

Mr. JONES. Of course, you might think it could be made better, but if it is a case of this bill or nothing, are you for this bill?

Mr. LYMAN. I do not know. I do not feel that I would be ready to answer that until this hearing is over.

Mr. PURNELL. Let us have somebody here representing your organization who will present the principal objections you have to the bill.

Mr. LYMAN. I do not intend to cover all of them. I stated at the beginning that I wanted to state merely some things.

Mr. TINCHER. I do not think you ought to commit the Kansas Farmers' Union on this bill. I have a letter from the officers of the Kansas Farmers' Union, congratulating this committee on its success in presenting this bill.

Mr. ASWELL. I have a letter from the Farmers' Union of my State, saying the same thing.

Mr. TINCHER. I take the trouble, when we report out a bill of any particular importance, of sending a copy to the Farmers' Union of my State.

Mr. LYMAN. Mr. Tincher, I have been intrusted with this matter; they have asked me, all the Farmers' Unions and other organizations, to do the best I could for effective packer legislation.

Now, the bill in itself, unless you give it very careful study and consideration—you know that it is pretty hard to tell, especially a bill like this.

Mr. TINCHER. As I understand, the Secretary of Agriculture, who is going to enforce this bill, thinks that it is a good bill, and indorses its passage. We have come into a consideration of it in the House. Now, if there is a weakness in the bill, you know as well as I know that I am ready to strengthen the bill. But some of the suggested amendments, it seems to me, would weaken it. I think the suggestions you make would tend to hinder and handicap the Secretary of Agriculture in the administration of the law.

Mr. LYMAN. May I ask, Mr. Tincher, whether you think this would weaken the bill, by the insertion, on page 1 of the bill, where we include the word "trusts"?

Mr. TINCHER. I don't think you change it a particle. I think anyone with an eighth-grade education should know that that language would include trusts. If any solicitor here representing the departments want it changed, I will stand for a change. But if we try to write a packer bill with all the provisions that every friend of the legislation wants in it to try to strengthen it, you would have one you could not carry to the Capitol at all.

Mr. LYMAN. I read of a case, represented by Mr. Root, of New York, I believe, where he won a case, where the words "joint stock" was left out before the word "association."

Mr. TINCHER. I do not believe you read that case.

Mr. LYMAN. I read of that case.

Mr. TINCHER. We had good lawyers with us when we prepared this bill. Was that "joint stock" or "joint stock corporation"?

Mr. LYMAN. Perhaps it was "joint stock corporation."

Mr. TINCHER. That would make some little difference. You ought not to simply read of a case and then come in here and talk as a lawyer about it; you ought to talk about the case.

Mr. LYMAN. I think we intended to include the term "joint-stock corporation."

Mr. TINCHER. That is in it; "joint-stock corporation" is in the bill.

Mr. LYMAN. In that case then, Mr. Tincher, that seemed to be important. That seemed to decide the case in favor of the defendant; that it was done in that case, in the case of a "joint-stock corporation" simply because there wasn't any definition of it.

Mr. JONES. Let us have that case.

Mr. LYMAN. I haven't the case here; I can get it, because I am about through, and I can step out and get it.

Mr. TINCHER. Do you know that the committee had a good lawyer here digging into this, and that the Secretary of Agriculture had his solicitor here digging into it; that we did not go on what we had read about it; do you know that?

Mr. LYMAN. Certainly I know that.

Mr. TINCHER. Then we looked into it very carefully.

Mr. TEN EYCK. For the benefit of the committee, and not the lawyer, I think we have a lot of good lawyers on the committee.

Mr. TINCHER. A lot of us admit that.

Mr. MCLAUGHLIN of Nebraska. We have called these gentlemen here, and they propose to tell us what objections they have to this bill, and they were given an hour and a half, and the hour and a half has passed, and out of that hour and a half these men have not been able to get very far into it; let us let them make their statements, and then we can get around the table and talk it over. It is an imposition on them to invite them in here and then have the members of the committee take up the time.

Mr. JONES. I agree with Mr. McLaughlin.

The CHAIRMAN. We will let him proceed in his own way. Whatever is your pleasure, go ahead.

Mr. LYMAN. Mr. Chairman, we thought we would go over this with you, and that is the reason we took the pains to go over this as we have, and we will leave these copies with you.

I would like now to call on Mr. Clark, representing the railway conductors.

The CHAIRMAN. Very well; we will hear you, Mr. Clark.

STATEMENT OF MR. W. M. CLARK, VICE PRESIDENT AND NATIONAL LEGISLATIVE REPRESENTATIVE OF THE ORDER OF RAILWAY CONDUCTORS OF AMERICA.

Mr. CLARK. Mr. Chairman and gentlemen of the committee, I assume most of you are aware that I appeared before this committee recently in an effort to submit in a statement the attitude of the four railway brotherhoods—the engineers, the firemen, the conductors, and the trainmen—and our attitude was explicitly given in that

statement, the purport of which was the necessity of having some remedial packer legislation.

Now, I do not think there is anybody here but believes there ought to be some kind of legislation.

Now, I have followed this bill reasonably closely, and I want to say now that having read it, this committee deserves a great deal of credit for an honest effort to bring about some legislation that would be beneficial to the consumers and the people.

I do not think there is anybody here that desires to offer anything that would in any sense weaken this bill.

Now, there seems to be an honest difference of opinion between the members of the committee and the people representing the farmers, as to whether or not something might be injected into the bill that would strengthen it. That is our purpose here. We do not want to do anything that would weaken the bill, but we have these amendments, and I believe they should be given at least consideration by the committee, and if there is anything in them that strengthens the bill, I think they ought to go in. And so far as our organizations are concerned, for whom I speak, we are going along with the farmers. That is our purpose here.

Now, I have heard considerable stress laid on one little word suggested in the amendment, so far as it concerns "may" or "shall." I have been in the labor game a good many years and have been confronted with "may" and "shall" and "emergency" until I have come to the belief that they are all made out of rubber. When you come to establish a rule on an emergency that may develop, it works both ways.

Now, the word "may," I think you will remember, in the Transportation act recently passed, the act said the men and the railroads "may" get together and establish boards. But they have not done it. So far as the men are concerned, they have tried to keep within the purview of that law; they have day in and day out tried to get the railroads to get together with them and establish a board, but the language is "may," and they will not do it. So much for that.

Now, I realize that the committee has burned a lot of midnight oil on this bill; days and weeks and months, and I think this is a long step in the right direction.

I heard one gentleman on the committee say that they had a splendid lawyer to whom they might look for advice. Well, if they only had one it would be all right; I heard another gentleman say they were all lawyers. [Laughter.]

If all these lawyers had been able to get together on the same interpretation of the bill, I say you all ought to have wings and go up right now.

Mr. KINCHELOE. Don't you think we are about as near together as these various organizations are on these amendments? Here Mr. Silver comes in representing the American Farm Bureau Federation and suggesting 3 amendments, and here you are with about 15.

Mr. CLARK. I did not know there were that many.

Mr. KINCHELOE. Maybe there are more.

Mr. CLARK. I am willing to say there are 17.

Mr. KINCHELOE. All right.

Mr. CLARK. So that is my purpose, at least, in appearing before you to-day, gentlemen, so that you should know that we are desirous of having proper remedial legislation here.

Mr. ASWELL. You are for the bill, as I understand you?

Mr. CLARK. Rather than none; yes, sir.

Mr. WILLIAMS. If we should change the word "may" to "shall" it would strengthen the bill, so far as you are concerned?

Mr. CLARK. I think so. I speak of that because of dealing with phrases of that kind for so many years, because if you had been up against the hard propositions the same as the railroad men have been in contending with "may" and "shall" and all that sort of thing, they are like a little bit of putty, they cover a multitude of sins; there is a great deal of rubber in them.

Mr. PURNELL. Is that the only amendment you want to urge, the change of a word from "may" to "shall"?

Mr. CLARK. I would be pleased to have that done, and I am in accord with these other men in speaking for the brotherhoods I am speaking for.

You remember the last phrase of my statement. I said that we would leave the final solution of this question to the committee and the men on the other side.

Mr. KINCHELOE. I want to say, Mr. Clark, that I have counted the amendments to this bill which you suggest, and there are 23.

Mr. CLARK. That is a bad number.

Mr. KINCHELOE. That is the skiddoo number.

Mr. CLARK. It is the skiddoo number.

Mr. KINCHELOE. The principal amendment, as I understand you, for which you are contending is that we should strike out the word "may" and put in the word "shall"?

Mr. CLARK. I think that would strengthen the bill. I think there are men on the committee and in this room now who do not agree with that.

Mr. KINCHELOE. You do not undertake to speak for all of these 23 amendments?

Mr. CLARK. No; Mr. Marsh will speak of them.

Mr. Chairman, the gentleman asked me if I was going to discuss the other amendments. I do not desire to do so. Mr. Marsh, as I understand it, will discuss all the amendments.

Gentlemen, I again thank you for your courtesy.

The CHAIRMAN. We are very much obliged to you, Mr. Clark.

Mr. Lyman, whom will you call next?

Mr. LYMAN. Mr. Chairman, Mr. Marsh will go ahead now on the matter of these amendments.

The CHAIRMAN. How many more are there to be heard?

Mr. LYMAN. I do not know, Mr. Chairman, but Mr. Marsh will cover it.

The CHAIRMAN. Mr. Marsh, we will hear from you.

STATEMENT OF MR. BENJAMIN C. MARSH, BLISS BUILDING, WASHINGTON, D. C.

Mr. MARSH. Mr. Chairman and gentlemen of the committee, I am not appearing here to-day for any one of the organizations exclusively—that is, for any one of the organizations which have signed this letter to the chairman of this committee requesting this hearing and making certain suggestions—but on behalf of all of those organizations, and Mr. Edward F. McGrady, representative

of the American Federation of Labor, who is in the room, asked me to state—of course, they signed the letter—that I may speak for them too.

I would like in the beginning to make this statement, Mr. Chairman, that I am going to devote myself to the specific amendments that we have laid before you, though there are a few amendments which we want to stress particularly.

I think all of us agree with the principle of the three amendments suggested by Mr. Silver on behalf of the American Farm Bureau Federation. I am not ready to say—Ido not know whether Mr. Silver is ready to say or not—that the American Farm Bureau Federation is opposed to the other suggestions and the other amendments which we suggest.

In addition to making the definite suggestions, however, may I say with reference to appearing at this, what may seem to be the eleventh hour, on this bill, that we realize that you gentlemen on this committee have worked very hard; we have worked very hard, and since this last draft of the bill has appeared, and which, as you know, is very different in many respects from your first bill, No. 14, and we have not——

The CHAIRMAN (interposing). Mr. Marsh, you must have worked very hard since yesterday. Yesterday you suggested 3 or 4 amendments, and to-day you suggest 23. At that rate how many will there be by the end of next week?

Mr. MARSH. Let us see if our calculating machine is working properly. We did not say we had only four, but that there were principles in the bill which we had indorsed and there might be other things which we might want to discuss.

But we would like to take these up and discuss them and asked to be allowed to come here, and the committee has done us a very great honor to permit us to be here. Now, Mr. Chairman, if I may take up these amendments.

Mr. JONES. Can you not confine yourself to three or four of the amendments, Mr. Marsh? It is unthinkable for us to sit here for you to discuss the 23 amendments. There is no use your talking about a lot of the amendments, but can you not bunch them?

Mr. MARSH. We think there is a very important principle involved here. Let us turn to page 25, then, Mr. Jones, following your suggestion.

We suggest that after line 11, on page 25, you strike out the rest of the section 401, and substitute therefor the following:

The Secretary shall, when this bill takes effect, devise a standardized manner and form in which the accounts, records, and memoranda of all persons, corporations, and others subject to the supervision of the Secretary under this act, shall be kept, and shall within a period of two years require the installation and use thereof, and after such installation any person who fails to keep such accounts, records, and memoranda shall, upon conviction, be imprisoned not more than three years.

That is what we propose, Mr. Chairman, for the balance of that section 401.

The CHAIRMAN. Now, for the purpose of getting it into the record, will you read what you propose to strike out?

Mr. MARSH. We propose to strike out the following:

Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records,

and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than $5,000, or imprisoned not more than three years, or both.

Mr. KINCHELOE. Now, what organizations indorse that amendment? Mr. Silver says they will be satisfied leaving it as it was, and Mr. Clark says that he will be satisfied if we make the one amendment in the one place, putting in the word "shall" and striking out the word "may."

Mr. MARSH. I think Mr. Clark would like to have this as strong as possible.

Mr. CLARK. I agree with that, Mr. Chairman.

Mr. ASWELL. Mr. Silver said that he had not seen it; his organization had not.

Mr. MARSH. That is entirely the responsibility of the American Farm Bureau Federation. They were invited to come into the conference with the other farm organizations, the women's organization, and the labor organizations, and I can not assume any responsibility for their not doing so.

Mr. PURNELL. Mr. Marsh, do you believe that the Secretary should have the authority to revamp and revise all of the bookkeeping and accounting of the packers?

Mr. MARSH. Answering your question, Mr. Purnell, I feel that he will have no control of the packers until he does that. I think that until we have a standardized system of accounting, there will be no way of checking up. I think that fact has been demonstrated by the Interstate Commerce Commission in their effort at controlling the railroads; that is, that until you have a standardized system of accounting, any regulation is futile. For years we had the Interstate Commerce Commission act, but it was without requirement of a standardized accounting system, and it was absolutely necessary to come to that before we could achieve anything in the way of regulation, and I think it is necessary now for the packers. It was necessary to have a standardized system, and to give the Interstate Commerce Commission powers with reference to the accounting system and methods of the railroads.

And I do not think we are asking anything drastic along that line, because on page 89 of these hearings on this bill, you will see that I asked the same thing there. It is nothing new.

We are not in any way impugning the work of the Secretary, but we recognize the established principle that this standardized system of accounting is necessary so that the Secretary will know what he is doing. And the opposition of the packers to any such accounting system being immediately installed, and their efforts to prevent its being written into the law—the extent of their opposition to that is the measure of the necessity therefor.

Mr. PURNELL. Have you considered whether that would work any hardship or injustice on the packers, to revise their entire bookkeeping system?

Mr. MARSH. I have considered it, but I have considered more the method of the packers in keeping books which do not show anything, and having a joint account, or split accounts, and all that sort of thing.

And I am sure if you, Congressman Purnell, like every other man on this committee, is concerned with the American public, 100 per cent of them right, you will consider the public, and not any temporary inconvenience of the packers, who have violated the law so long.

Mr. PURNELL. But I do not want to destroy any legitimate private business.

Mr. MARSH. Neither do I. May I make that clear——

Mr. PURNELL (interposing). We have gone just far enough with this bill on the floor of the House to discover that we are going to have a hard enough time to get it through, because that is considered Government interference with private business.

Mr. JONES. That is practically all the opposition we have had to it.

Mr. PURNELL. Yes; and now, if we come back with this bill with further amendments of that sort, we willl lay ourselves liable to renewed criticism by the Members who are now interested.

Mr. MARSH. Very well, then; I think we had better go to the country on the issue. The fact that the Interstate Commerce Commission has had this difficulty——

Mr. ASWELL (interposing). If we go to the country, how long will it take to get a bill passed?

Mr. MARSH. If you get the President of the United States to issue a statement on the subject.

Mr. ASWELL. How long would it take to get that done and go to the country on the issue?

Mr. KINCHELOE. Do you mean to say that you do not want any packer legislation at all if we pass this bill?

Mr. MARSH. I am going to finish my statement.

Mr. KINCHELOE. You can answer that question.

Mr. MARSH. I can answer personally, but not for all these organizations.

Mr. KINCHELOE. What is your answer?

Mr. MARSH. Personally, I would prefer not to see this bill as it stands, enacted.

Mr. KINCHELOE. You would rather see none at all?

Mr. MARSH. Oh, no.

Mr. KINCHELOE. Then you would rather have this?

Mr. MARSH. Yes; I will say this, if you gentlemen say that there is any influence on the Congress of the United States that will prevent real legislation from passing, then scrap this.

Mr. KINCHELOE. I will tell you what I heard; I heard some gentlemen speaking of this in the House and criticizing it merely because they thought it was an interference of the Government with private business; and that is from men who are as free from packer influence as I am.

The CHAIRMAN. Let me ask you this, Mr. Marsh: Do you think this bill is too drastic?

Mr. MARSH. No, Congressman, I do not believe it is too drastic. I am trying to suggest measures not that we think it is too drastic, but to make the control adequate.

The CHAIRMAN. In this very amendment you are suggesting something different; referring to the $5,000 penalty; you are suggesting striking it out.

Mr. MARSH. I think you will agree with me that the $5,000 fine, or the possibility of giving the judge a chance to select a $5,000 fine or a three years' imprisonment weakens the bill; to make it specific.

The CHAIRMAN. But you are not making it specific.

Mr. MARSH. Oh, I beg your pardon.

The CHAIRMAN. You say "not more than three years."

Mr. KINCHELOE. You don't think that the judge would be so influenced by the packers that if he thought the offense justified a fine that he would give them a fine, and if he thought the offense justified a fine and imprisonment, that he would give them only a fine, and not imprisonment?

Mr. MARSH. There are judges and judges. Have any of the packers gone to jail yet?

Mr. TINCHER. Let me ask you a question. Mr. Clark, who just left the stand, and who made a statement here, seems to be a very fair man.

Mr. MARSH. He is.

Mr. TINCHER. And he represents the railway conductors, a very high class of men.

Mr. MARSH. Yes, sir.

Mr. TINCHER. He complimented the committee, and said it was a long step in the right direction. Now you come along say, "If I can not write it, do not pass it."

Mr. MARSH. Oh, no, sir.

Mr. TINCHER. I wondered if your position in Washington was somewhat dependent upon having something to agitate, and if a real representative who knows about 2,000 farmers that he represents personally, if his judgment would be about as good as yours as to whether or not they should pass a bill such as we have indorsed here, and place the packers under supervision of the Secretary of Agriculture and attempt to cure the evils that exist in their business; whether I would not be justified in thinking I know what the farmers want, as well as you. But you come in and say that if you can not have it your way, if you can not write it, we will go to the people with it.

We went to the people with an issue last fall—and I do not mean to be harsh about it, but we went to the people with an issue which was made by a man who said, "We will have it this way or not at all." I think the people decided last fall, and always decide when it is put up to them, that they want to be reasonable, and if they could not get everything they wanted, they would get the best they could, and if that would cure a part of the evils, then to pass it and cure them. Personally, my honest judgment is that the amendment you are now talking about—and I represent some farmers without any misunderstanding as to who was to represent them—I think that amendment would create more prejudice against this bill, and create more prejudice against its administration and have a tendency to destroy the good effect of the bill, more than you realize.

Mr. PURNELL. It would certainly weaken its chances of getting through the House.

Mr. TINCHER. It would weaken its chances of getting through the House, and would prejudice the people against it.

Mr. JONES. It would be harder to get it through.

Mr. MARSH. May I make a statement? Mr. Tincher has made some statements here. I am perfectly willing to leave it to the farmers, whether I am expressing my personal opinion or not. Shall I go on, Mr. Chairman?

The CHAIRMAN. You realize the situation, of course. The packers themselves are protecting against the passage of this bill.

Mr. MARSH. Yes; naturally.

The CHAIRMAN. Now, we have made provision in this bill with reference to this matter; we provided in the bill $5,000 fine, or three years imprisonment, or both. But you come here and insist on striking that out; that is, on striking out the $5,000 fine. Now, let us know whether you are for it, or against it.

Mr. MARSH. You know, absolutely.

The CHAIRMAN. Then go ahead and tell us what you want. If you can suggest anything to strengthen it, very well.

Mr. MARSH. So far as our group is concerned, I am sure we would not be contentious; if you think the $5,000 fine alternative is better, let it in. I do not stickle as to that.

The CHAIRMAN. You suggest no fine, but only imprisonment.

Mr. KINCHELOE. Let me interrupt you, Mr. Marsh. Mr. Clark said that with that amendment which he spoke of, changing the word "may" to "shall" he thinks it is a good bill, and congratulated the committee. He represents the railway conductors, and there is no higher class of men in the world.

Mr. MARSH. I agree with you.

Mr. KINCHELOE. Now, you say that without getting your amendments in there—rather than to have this bill pass as reported by the committee, you would rather that it did not pass at all. Do you think that the farmers you represent agree with you?

Mr. MARSH. I think they will when I get through this morning.

Mr. KINCHELOE. You think you can convert them?

Mr. MARSH. I think if I have an opportunity to give them my statement this morning they will be convinced.

Mr. TINCHER. You mean what statement?

Mr. MARSH. I am going to continue with an analysis of this bill.

Mr. JONES. If you do not represent the packers, we know that the packers do not want it, and if you represent all the farmers, you say the farmers do not want it.

Mr. MARSH. I do not represent them all. One man says that he does not want legislation, but there are two reasons——

Mr. KINCHELOE (interposing). The point is, you say that rather than have this bill in this shape, you do not want it at all.

Mr. TINCHER. In justice to Mr. Marsh—I know his position; he has been before the committee a number of times—his real idea is that the Government should own the packing plants and operate them.

Mr. MARSH. Pardon me, Mr. Tincher, but Mr. Marsh reserves the right to express his own opinion, and I have never suggested Government ownership and operation of the plants.

Mr. TINCHER. You have expressed it before.

Mr. MARSH. I have never expressed such an opinion on that subject.

Mr. CLARK. May I say a word?

The CHAIRMAN. Yes.

Mr. CLARK. The gentleman here said I was perfectly satisfied with the bill, or——

Mr. ASWELL (interposing). I did not say that.

Mr. KINCHELOE. I thought you said with the word "may" stricken out, and the word "shall" inserted you were satisfied with it.

Mr. CLARK. I thought that would strengthen the bill. I said that Mr. Marsh would discuss the other amendments.

Mr. KINCHELOE. I know you did not discuss it. But I understood you with that amendment you would rather see this bill passed than no legislation at all.

Mr. ASWELL. He did say that.

Mr. CLARK. I will not take it back now. But I do not want the committee to think that I am one of these soft, mellow, conservative fellows, but my whole thought is to do what is right.

Mr. ASWELL. Yes; that is right.

Mr. CLARK. My thought now is that these amendments are necessary to strengthen the bill, but that is my personal opinion; but, of course, among you gentlemen who have had long experience in lawmaking and all that sort of thing, perhaps your opinion and disposition is better than mine. But that is my opinion.

Mr. KINCHELOE. Let me understand you. You say "these amendments"; you mean the ones you discussed, or the 23?

Mr. CLARK. I only discussed one.

Mr. KINCHELOE. I mean the 23 suggested here, or the one you have referred to?

Mr. CLARK. Well, we have agreed to go along with the farmers' organization in their effort to write a proper bill here.

Mr. KINCHELOE. Well, the farmers' organization that Mr. Silver represents, the American Farm Bureau Federation, they are for this bill; and I understand that the farmers' organization that Mr. Marsh represents are not for it. So——

Mr. CLARK (interposing). Is the other side opposed to the amendments we suggested?

Mr. KINCHELOE. I did not understand that Mr. Silver went that far; but he said with three amendments he would be satisfied.

Mr. CLARK. I understood him also that he was not familiar with the 23; becoming familiar with them, he may agree with them.

Mr. KINCHELOE. I understood you to say you are not familiar with the 23.

Mr. CLARK. No; I am not.

Mr. ASWELL. You said, and still say, that the bill as reported, you think is a long step in the right direction?

Mr. CLARK. I did say that.

Mr. ASWELL. And you still say that?

Mr. CLARK. I think it is a long step in the right direction, but it is an effort after many weeks' discussion. And we think—our whole effort is to try to strengthen the bill. Now, I imagine it is rather hard to try to convince the committee that these amendments would strengthen the bill. There is an honest difference of opinion here.

Mr. JONES. You appreciate the fact that there are differences of opinion here. There are five or six amendments, none of which I think would strengthen the bill. But we have to try to get suggestions here that would strengthen the bill.

Mr. TINCHER. We will probably have 200 amendments on the floor of the House within the next week.

Mr. JONES. Yes; and some of them will weaken it.

Mr. CLARK. I do not apprehend there will be 200 amendments adopted.

Mr. TINCHER. But they will be suggested.

Mr. JONES. And some of them may be written in.

Mr. CLARK. That is all I care to say.

Mr. MARSH. Now, Mr. Chairman, I was asked for my personal opinion on this bill. I do not like to express it, but you asked me to do so, and I did it.

Our organizations have not had time to analyze this bill closely. We have not yet had time to get our analysis, which we have prepared, and which I will present, to our organizations. They might speak after their analysis, and I think that it is fair to have this go into the record.

Mr. PURNELL. Do you speak for the organizations on these 23 amendments?

Mr. MARSH. I speak for the organizations in presenting the amendments.

Mr. PURNELL. I mean, has the organization specifically passed on the 23 amendments?

Mr. MARSH. They have specifically passed on the principles of them. They could not pass on the points involved; they have not had time since this bill has been drafted.

The CHAIRMAN. You say you have not had time. This bill has been before you for several months.

Mr. MARSH. No.

The CHAIRMAN. Just wait a minute. It was reported last Congress, and it comes out now with very few amendments. It transfers the jurisdiction over the stock yards to the Secretary of Agriculture, instead of the Interstate Commerce Commission. You have had time, and you have been before the committee a number of times. You have been of great service to the committee, and we appreciate that. Now, if you have any new suggestions we would be glad to have them, but all of these suggestions we have had before us.

Mr. MARSH. Mr. Chairman, I am going to point out, by reference to my previous testimony to which you have referred, that we are entirely consistent.

The CHAIRMAN. I do not want you to state that you did not have time to examine the bill. I want you to be fair about it.

Mr. MARSH. I want to be fair. I think you will see that you have made several changes from your other bill.

The CHAIRMAN. Very few.

Mr. MARSH. You have made some, and I want to raise some questions on those. You can not, in asking any organization to indorse a bill, you can not ask them to indorse a bill until you know what it is going to be. You can indorse principles. Our associations have stated what principles they wanted, and I will present them, by reference to the pages and lines of the bill before you, which has not been before you at any time I have appeared before you. May I continue?

The CHAIRMAN. The same bill is here, with only a few exceptions.

Mr. MARSH. I will take up those exceptions.

Mr. TEN EYCK. Why not let him take up those exceptions in regular order?

The CHAIRMAN. I do not want him to say that he has not had time on a bill that has been before the House for a year.

Mr. MARSH. If I may continue, on page 25, we will begin at section 402, on line 21, and we desire to amend that to read as follows:

"For the efficient execution of the provisions of this act and in order to provide information for the use of Congress," and then continue the provision, "including penalties," etc. That I may call to your attention; that expression occurs in the Norris bill.

One reason for that is that Congress may be perfectly free to procure all of the information it wants; that the Secretary of Agriculture may have the authority to get this information and make it public. Without this provision he would not have that power.

And then I would like to take up a discussion of another point, if I may—and here we want to have something clarified—we are not absolutely clear about it ourselves. But to take up a discussion of the principles involved in this bill. I ask you if we correctly understand it, if we interpret correctly section 405, which reads as follows—this is on page 26, section 405, as follows; as it now stands, it reads:

"Nothing contained in this act, except as otherwise provided herein, shall be construed," etc.

Now, gentlemen, frankly I raised this question only in outline in preceding hearings. We are not sure whether it is your purpose to exclude initial action or investigation by the Department of Justice, and practically to incorporate into this bill with reference to the packers the principle which is worked out in what is known as the Steele bill for an elective license to be given by the Federal Trade Commission. I am going to raise the question of the application of that. If we correctly understand it, the Secretary of Agriculture is given exclusive initial jurisdiction as to the violations of the prohibition of the antitrust laws which are incorporated in this bill, and which are enumerated, and the Attorney General of the United States, if we correctly understand it, is by these words on page 26, lines 21 and 22, "except as otherwise provided herein," the Attorney General is excluded from initial action or prosecution by those words. Now, we do not know whether that is your intention or not. But it seems to us that is the effect of that amendment.

Then there seems to be a little conflict as to the treatment or liberty to be accorded different Government agencies. I call your attention to this fact, that in section 406(a), page 27, you say specifically:

> Nothing in this act shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission.

We would like to be informed whether it is your purpose to say that the Federal Trade Commission act is not affected or the Clayton and Sherman antitrust laws, or that the Clayton and Sherman antitrust laws are superseded in so far as this bill is concerned? What is the purpose of these words?

Mr. TINCHER. Mr. Marsh, the Clayton antitrust law, and the others, have been a failure in so far as curing these evils is concerned.

Mr. MARSH. Admittedly.

Mr. TINCHER. The Clayton Act has not cured the evils.

Mr. MARSH. They have never been given power to cure the evils.

Mr. TINCHER. Now, you do not believe in two departments of the Government having the same authority, I suppose?

Mr. MARSH. No; I do not believe in them having the same authority, neither do I believe in giving to an untried agency authority which has been effectually used by a tried agency, such as the Federal Trade Commission, and preventing the Federal Trade Commission from exercising certain powers at the request of the President or of either branch of Congress. As Mr. McLaughlin pointed out, it was the President, and not the Congress, that authorized an investigation of the meat-packing industry.

Mr. TINCHER. Now, if you are going to put it in the Federal Trade Commission, it ought to be left there. One ought to have authority to regulate the meat-packing industry, and the other not. There ought not to be conflicting authority.

Mr. MARSH. There ought not to be conflict of authority.

Mr. TINCHER. There is nothing in this bill to prevent Congress at any time having another arm of the Government regulate the packers. But if we are going to have the Federal Trade Commission regulate the packers, we ought not to have some other arm of the Government also regulating them. Frankly, I talked with the chairman of the Federal Trade Commission, and also with Mr. Burke, who is a well-informed man on the live stock end of the business, and it has been his idea that there should not be a conflict of authority. The Federal Trade Commission would do it under protest; they would be willing to undertake what we are putting on the Secretary of Agriculture. But Mr. Burke would have been willing to handle it, I think. But he and the chairman of the Federal Trade Commission both thought wherever we put the authority we should leave it there and not handicap them by a conflict of authority. The bill does not—and I think no fair man can say that it does—repeal the antitrust laws.

Mr. MARSH. As I say, we discussed this thing day and night. May I read this—there are several lawyers here—starting with section 405, line 21?

Nothing contained in this act, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies"—

I will not read the dates.

Mr. TINCHER. That is the antitrust law.

Mr. MARSH. That is the antitrust law. And it continues:

"An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes;

"An act to promote export trade, and for other purposes;

"An act to reduce taxation"—

I suppose that other refers to the Webb law, and then the revenue bill, "An act to reduce taxation, to provide revenue for the Government, and for other purposes,"

And then section (b), "To alter, modify, or repeal such acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this act becomes effective.

Now, may I ask this question, Mr. Tincher: What is the purpose of the words "except as otherwise provided herein" on page 26, line 21?

Mr. JONES. That is just to cover any expression in here that might, by this enactment, affect some provision of some other law

that might conflict with it; that is all. You can not have two conflicting laws in force at the same time.

Mr. MARSH. No.

Mr. JONES. And this is the latest expression, and I think it would repeal any law that conflicted with it, and that is all that means.

Mr. MARSH. All right then.

Coming now to page 28, and bearing on that situation, is this:

(b) On and after the enactment of this act, and so long as it remains in effect, the Federal Trade Commission shall have no power or jurisdiction so far as relating to any matter which by this act is made subject to the jurisdiction of the Secretary—

That means the Secretary of Agriculture, of course—

except in cases in which, before the enactment of this act, complaint has been served under section 5 of the act entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, or under section 11 of an act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

Now, why do you specifically prevent what you may term concurrent or duplicate jurisdiction on the part of the Federal Trade Commission and the Secretary of Agriculture, but retain those powers in section 406 (a), in the last paragraph on page 27, so far as the Interstate Commerce Commission is concerned?

Mr. TINCHER. There isn't any conflict of jurisdiction.

Mr. MARSH. It seemed to us there was.

Mr. TINCHER. No; it is to clarify the situation, if there was a contention there. It was not the intention of the committee to interfere with any powers the Federal Trade Commission has. We say we intend to give the powers to the Secretary of Agriculture that the Federal Trade Commission now has. The idea was to lodge that in one branch of the Government.

Mr. KINCHELOE. And that for the purpose of preventing duplication of authority.

Mr. TINCHER. Absolutely. And I want to say here that I do not think the Federal Trade Commission, who are well-informed on this subject, object at all to that provision.

Mr. MARSH. Then is not this the situation to-day: The Federal Trade Commission—I can not give you the section—but it is empowered to investigate the working out of any action taken by the Attorney General; as, for instance, I understand the Federal Trade Commission is to-day working to find out how far the agreement between the packers and the Attorney General is working out.

Mr. TINCHER. The consent decree?

Mr. MARSH. The consent decree; yes. Will this act preclude them from continuing any investigation they have already begun?

Mr. TINCHER. It says it will not.

Mr. MARSH. Or will it preclude their going ahead with any such investigation?

Mr. TINCHER. It says it will not.

Mr. KINCHELOE. It specifically says it will not, in section 406 (b).

Mr. MARSH. How about any existing investigation?

Mr. TINCHER. We want it done by the Secretary of Agriculture.

Mr. JONES. We have got to cut down the expenses of the Government.

Mr. MARSH. We certainly want the expenses of the Government cut down, but the best way is not to take these matters away from an effective agency.

Mr. TINCHER. Do you mean by that statement that you want both left in authority?

Mr. MARSH. No. I will suggest an amendment on page 28, after line 12, as follows:

Page 28, line 12, take out the period, insert comma, and add, "except when the Federal Trade Commission shall hereafter be directed by the President or either branch of Congress to investigate such domestic commerce: *Provided*, That the termination of the jurisdiction of the Federal Trade Commission shall not extend to or interfere with any proceeding or investigation heretofore begun under such acts and pending when this act becomes law."

Mr. TINCHER. The purport of that is in the bill now.

Mr. MARSH. In substance, but only by implication, which may be contested.

Mr. TINCHER. The first part of it, you provide here—Mr. McLaughline, of Nebraska, suggested the only possible thing for the committee to decide, and that is whether we still want the Federal Trade Commission to have authority without the action of the President or Congress, they would have that now without this amendment.

Mr. MARSH. Not by resolution. It would require legislation.

Mr. TINCHER. If we pass a resolution, we could pass a law giving authority. But here is a proposition now whether you want this in this shape: As I understand your amendment, you want the bill left so that the President, if he wants to, independent of the law that puts this under the jurisdiction of the Secretary of Agriculture, can order the Federal Trade Commission, under the present existing law, to make another one of those extensive and elaborate investigations of the packers?

Mr. MCLAUGHLIN of Nebraska. A short amendment suggested by Mr. Silver would take care of it.

Mr. MARSH. Yes; we are in accord with the others on that. But we would like to have the Federal Trade Commission free of its own accord to take this action. Do they have it on any proceeding already instituted?

Mr. TINCHER. I understood you to say it had been instituted.

Mr. MARSH. There was some proceedings in some cases. But the need will come up very frequently.

Mr. TINCHER. Personally, if you want my opinion on it, I think it should come up to the Secretary of Agriculture. I have some pronounced views on this consent decree.

Mr. MARSH. I think the Trade Commission is the proper body.

Mr. TINCHER. If we offer this amendment on the floor of the House, the committee will have something to contend with; something that you gentlemen do not take into consideration. Some Member would say, "What does that mean; do you want to duplicate authority; do you want to give authority to the Federal Trade Commission and also to the Secretary of Agriculture?"

Mr. KINCHELOE. And you would have to answer yes.

Mr. TINCHER. Yes; you would have to answer yes, and how far do you think we would get with it?

Mr. MARSH. I think you could say that they are limited to a certain line of proceeding, and the Secretary of Agriculture could go

ahead with these things. I am not talking about other similar investigations.

Mr. JONES. And you have another proposition. Both the preceding President and this one have expressed their opinions that there should be no duplication of activities in the departments, and this bill goes down there for consideration with this duplication in it, this duplication of authority, and I do not think it would get by the White House.

Mr. JONES. It would never get down there.

Mr. PURNELL. It would never pass in Congress.

The CHAIRMAN. Mr. Marsh, we are hurried for time; how much more time do you desire?

Mr. MARSH. I think 20 minutes more will cover it.

The CHAIRMAN. Very well; go ahead.

Mr. TINCHER. When you get through, I see Mrs. Costigan here, who represents the Consumers' League, and she may want to say something.

Mrs. COSTIGAN. I do not think I care to be heard.

Mr. MARSH. I will say, Mr. Tincher, that we have asked her to speak.

Mr. VOIGT. Before you leave this proposition, I think there is something in what you have said. Suppose this bill becomes law, and the Attorney General wants to prosecute under the antitrust act, or the Secretary of Agriculture wants to investigate certain subject matter; it might be that the Attorney General or the Secretary of Agriculture might not have the machinery to make that investigation, but the Federal Trade Commission might have that machinery. It might be well to insert in this bill that if the President, or the Congress, if it directs an investigation, that it, the Federal Trade Commission, shall then go ahead with the investigation.

Mr. MARSH. That would meet part of our desires or suggestions exactly.

Mr. KINCHELOE. Mr. Silver's amendment reads——

Mr. VOIGT (interposing). That they shall have the right to investigate when the President or either branch of Congress so directs.

Mr. KINCHELOE. Yes.

Mr. VOIGT. That might include the Secretary of Agriculture also.

Mr. MARSH. I think it would be well.

Mr. VOIGT. Because of the fact that he has joint authority. Now, the question is whether, with the machinery that the Federal Trade Commission has for investigation, it might not be a wise thing for the Secretary of Agriculture or the Attorney General to call on them for an investigation.

Mr. KINCHELOE. I can see the force of your suggestion.

Mr. JONES. If it were limited to that, but to go into it without such authority——

Mr. MARSH (interposing). Now, I will, with your permission, proceed.

The CHAIRMAN. Yes; proceed in your own way. Our time is limited.

Mr. MARSH. I will be glad to stay as long as anybody wants to ask questions.

The CHAIRMAN. Proceed in your own way.

Mr. MARSH. On page 4, line 21, after the word "above," add:

Or is an officer, director, or manager of any business referred to in clause (a) or (b) above.

That is, so as to cover those specifically, those who have 20 per cent of the stock.

And add:

The term "packer" also means any corporation, partnership, association, joint stock association, estate, or trust holding, voting, or having a beneficial interest in 20 per cent. or more, or guaranteeing 20 per cent. or more, of any class of outstanding shares or other securities of a packer.

And then, on page 5, we want to call your attention to the fact that there are several methods of trying to convict people, as we understand it. One is that their action shall have an effect or result, and another is that their action may have a tendency to an effect or result. Now, if I understand the Federal Trade Commission act, they merely require the proving of a tendency, which is comparatively easy to establish, and this bill should do the same.

Now, on page 5, line 11, you use that expression, "if such apportionment has the tendency or effect," and do not limit it to the result; it reads, "if such apportionment has the tendency or effect of restraining commerce, or of creating a monopoly in commerce."

Now, we believe that amendment or provision as to merely proving the tendency should be incorporated, because it would be infinitely easier for the Secretary or Attorney General, or anyone else trying to reach a situation, to prove a tendency. And, of course, you have recognized this, using that expression in line 11.

On page 6, we would suggest that line 9, section 203 (*a*) should read:

Whenever the Secretary on his own information or on the affirmation of others has reason to believe.

So that the way may be entirely clear for complaints to be made in the same way.

Mr. JONES. That means the same thing, I think.

Mr. MARSH. We thought to strengthen it.

Then on page 9, section 204 (e), line 8, we would add, after the word "Secretary":

But the findings of the Secretary as to the facts, if supported by evidence, shall be conclusive.

Mr. KINCHELOE. Are you not likely to get into a situation there where you would make the bill unconstitutional?

Mr. MARSH. I do not think so. That provision was in the original Haugen bill.

Mr. THOMPSON. It is a very close question.

Mr. KINCHELOE. You are denying them the right of appealing to the courts of the country from an administrative officer.

Mr. MARSH. Oh, no; "if supported by evidence."

Mr. KINCHELOE. Supposing the court was to hold that?

Mr. MARSH. Then you would have a court holding that, and it would be conclusive.

Mr. KINCHELOE. But I don't think the court would hold that it should be confined strictly to the Secretary of Agriculture to make findings as to the facts.

Mr. MARSH. We want to expedite matters, and not waste the taxpayers' money by having all sorts of hearings.

On line 12, page 9, we suggest that you insert after the word "evidence" the words "before the Secretary."

On page 9, in line 18, we suggest adding after the words "such additional evidence" the following: "Such new or modified findings as to the facts, if supported by evidence, shall be conclusive." The same principle.

Then our next suggestion is on page 12, line 2, after the word "purchaser," to add the following, putting a comma after the word "purchaser": "and includes any packer in his capacity as a buyer or a seller of live stock in commerce, and any employee or agent of any packer in such capacity."

I am not going to take up the time of the committee to comment on that.

Now on page 17 Mr. Lyman has already made suggestions to you in regard to addition there.

On page 23, line 2, we suggest that after the "receiving" there be inserted "buying, selling,".

Mr. CLAGUE. "Marketing" pretty well covers that, doesn't it?

Mr. MARSH. We want it to be so clear that there will not be any question about it. Some people might think that that was not quite clear. Here is the point that I want to make, and I think you will agree with me on it, that if the thing is understood it will not do any harm to put it in.

Mr. KINCHELOE. There will not be any marketing if there isn't any buying and selling.

Mr. MARSH. I think it would make it safer if that suggestion were adopted, and those words were placed in that line.

On page 23, line 9, we suggest that you change the word "may" to "shall."

On page 23, line 22, we suggest that you strike out the word "knowingly." It is now: "Any stockyard owner, market agency, or dealer who knowingly fails to obey any order," etc., and we suggest that the word "knowingly" be stricken out, because that is a very difficult thing to prove.

Mr. KINCHELOE. Well, do you want to substitute anything for that word "knowingly"?

Mr. MARSH. Well, the discussion was up, and I think we suggested substituting the word "willfully."

Mr. JONES. He would have to do it knowingly if he did it willfully. A man has to know a thing before he can do it willfully.

Mr. MARSH. Well, what loophole does this leave then? Do you have to prove that a man knew all about the law?

Mr. JONES. I am not taking issue with your suggestion, but I say that "willfully" would not make it any better, from your viewpoint. It would not make it any better to say "willfully."

Mr. MARSH. Well, we suggest that the word "knowingly" be stricken out. And that it will read: "Any stockyard owner, market agency, or dealer who fails to obey any order," etc.

Mr. JONES. Well, I don't know but what you are right on that.

Mr. MARSH. I am not absolutely sure, but we thought that that should be the law.

Then we have discussed the amendments on page 25 and page 26. We would like to make two or three suggestions.

On page 26, line 3, after the word "act" incorporate: "and in performing his duties under this act."

In line 5, page 26, insert after the word "agents" the words "or examiners."

In line 7, page 26, add the following after the words "United States.": "The powers and duties conferred or imposed upon the Secretary by this act may be exercised by him through such agent, agents, agency, or agencies as he may designate, subject to the approval of the Secretary."

Mr. KINCHELOE. Well, that question was raised in general debate yesterday on the floor as to the examinations conducted by the Interstate Commerce Commission. While there is no provision of that kind, the Interstate Commerce Commission always conducts its hearings, or practically always, by means of examiners sent throughout the country.

Mr. MARSH. Well, Mr. Kincheloe, is there any harm in putting it in?

Mr. KINCHELOE. Well, why put it in? He will designate anybody that he wants to do it under this law.

Mr. MARSH. Well, if you put this suggested language in there, it will make it specific.

Mr. KINCHELOE. Well, the interstate commerce act does not do it. Why put in any unnecessary language? The Interstate Commerce Commission has sent examiners into my State, for instance, lots of times.

Mr. MARSH. Well, it may not be essential, but we thought it ought to be put in there.

The next suggestion we do think is very important, though, Mr. Chairman, and that is that you put in a provision, which will be section 402 (a).

Mr. CLAGUE. What line?

Mr. MARSH. After section 402, ending on line 7, page 26, that a provision, which will be section 402 (a), be put in, to apply, of course, here in the general provision to the entire bill:

All hearings and proceedings subsequent to the issuance of complaint by the Secretary shall be open to the public, and all records of such hearings and such subsequent proceedings shall be public records.

Now, we believe that in this matter where you are putting the packers under such regulation and where you have got to establish certain principles, that it is very important for all concerned, particularly for the public, that all these hearings shall be open to the public.

Mr. JONES. May I ask you a question right there, Mr. Marsh? Has any one of the departments here ever conducted secret hearings in any matter at all? I am just asking for information. I have not gone into it. I have never heard of it if they do.

Mr. MARSH. Well, Mr. Jones, I can not answer that question. I do not know.

Mr. TINCHER. Suppose the Secretary of Agriculture should want to make some inquiry and did not care about having it public, do you think he should have that right?

Mr. MARSH. Why, I do not think he should have the right, just exactly as I thoroughly believe that the Senate, when it is discussing nominations or treaties in which the American people are involved, should have public hearings. I am a strong believer in public hearings.

Mr. TINCHER. Well, do you think that when I am talking, for example, with the Secretary of Agriculture, that that should be public?

Mr. MARSH. Well, that is another matter.

Mr. TINCHER. Do you think you ought to be in when I am talking with the Secretary of Agriculture?

Mr. MARSH. That is a different procedure.

Mr. TINCHER. Suppose the Secretary of Agriculture wanted to ascertain and decide as to whether he should conduct certain hearings, and he wants to talk to certain men and find out certain evidence and facts, where would you stop the right to have private conferences and start his obligation to do his official business publicly?

Mr. MARSH. I believe that in a situation like this you had better err on the side of too great publicity than too little publicity. I remember when Mr. Hughes became governor of New York State that instead of having an inner office he moved right out into the outer office, a big room there, and folks saw him in public, and all knew who were there.

Mr. KINCHELOE. Well, all of his private engagements were not made out in the open public office, were they?

Mr. MARSH. I wasn't with him enough to know that.

Mr. KINCHELOE. No.

Mr. MARSH. I know that the conferences on official business were public.

Mr. JONES. Mr. Marsh, I have not yet heard of any department of this Government holding a secret hearing; that is, where it was a formal hearing. I don't think there would be any danger of that. I don't know that there is any particular objection to this, but I don't think there has been any real need for that, because I have never heard a complaint made that any department of the Government, any executive department, I mean, has ever refused the public admittance to a regular hearing. There may be such instances, but I have never heard of them.

Mr. MARSH. It is my recollection that the Federal Trade Commission law makes just this stipulation. And here, gentlemen, what we are doing is really this, is it not? We are initiating a new procedure, and the reason we have been so urgent with some of these suggestions, or perhaps have seemed to have been so urgent with some of these suggestions, is that we say that the Attorney General, and the Sherman Act, and the antitrust laws have failed to regulate the business. We admit that, as was said here this morning. All right. Now, we are initiating a new procedure, dealing with an enormous aggregation of capital, and we are modifying our past procedure. We are giving them something comparable to the juvenile court, as far as children are concerned.

Mr. KINCHELOE. Suppose they wanted to investigate one of these packers. Can you not conceive of such a situation as this arising: Suppose they summon one of the employees of a packer, to give some valuable information. That employee, if he has to sit there and give

that information, with his employer sitting there right beside him, would not be liable to reveal that information or would not be as liable to reveal that information as if, in the discretion of the Secretary of Agriculture, he was brought in to give it and his employer not sitting beside him when he gave it. Suppose the Secretary of Agriculture, in his discretion, should say, "We will not expose this fellow who is giving us this information; let us have an executive session and give him a chance to tell what he knows."

Mr. MARSH. The fact that that employee was in there and the packer knew he was in there testifying would probably settle the situation right off.

Mr. KINCHELOE. Do you not think it would have the direct effect, though, of his concealment of information that he would otherwise give? Don't you think it would have the effect of his telling what he knew, with his employer sitting there beside him?

Mr. MARSH. I don't think so; but even if I thought it might, I think we ought to take a chance on that, because that chance is very much less than that in the future some hearing that ought to be held in public would not be held in public. And we have got to deal with principles and not with the present Secretary of Agriculture. It is a good deal safer that this provision be made so as to have complete publicity as to this entire procedure.

Mr. JONES. I want to say this, that I believe the hearings should be public in the main. I don't know whether it would be wise to make that specific provision when there has been no complaint. I know that in the trial of cases there come times when you can get more information out of the witness by excluding all others from the court room and having him make his statement privately.

Mr. MARSH. Yes; and you have a great many more divorces where you have secret divorce hearings. Such secret hearings encourage it.

Mr. KINCHELOE. But the divorce record, after the investigation is made, is a public record.

Mr. JONES. I thought you wanted more action.

Mr. MARSH. I want more action, not more delays.

Mr. CLAGUE. I wouldn't spend much time about that.

Mr. JONES. There are some of your amendments that I think have something to them, and there are some that I do not think are very important. But however that may be, with reference now to your suggestion a while ago that you are going to try to stir up opposition to this bill. You will put the committee in a very awkward position if you do that.

Mr. MARSH. I didn't say so; pardon me, Mr. Jones, I didn't say so.

Mr. JONES. Now, this is not my ideal of a bill, but with the committee doing the best it can, if you are going out and trying to analyze the bill and showing that it is worse than no bill at all, you do not encourage and you do not cooperate much with the committee in trying to get some sort of legislation.

Mr. MARSH. Well, now, Mr. Jones, let me make a statement, so that I can get my position clear in the record.

Mr. JONES. I did not get all of my ideas and perhaps you did not get all of yours in the bill.

Mr. MARSH. Let me make one statement now so that I can get it straight for the record, because there has been some misunderstanding. It is a matter of—I would not say personal privilege—but there has

been some misunderstanding. I was asked personally whether I thought that this bill, as it stands, would be better than no legislation, and I said no. I am an executive of an organization. If that organization decides that this legislation is all we can get, and we had better take it—if it is not a matter of principle—I would go ahead. In any case I want to assure you of this, that none of these organizations will oppose this bill finally until we get the conference bill. It would not be equitable to pass this bill in the last analysis. I realize that the representatives of the packers are sitting here. The fight is going to come in the conference over this bill, between the two branches of Congress.

Mr. JONES. Then you would not advise us as members of the committee, if we think we can not get all these amendments that we want in there, to desert the ship now and say we won't go any further?

Mr. MARSH. No.

Mr. JONES. That is the point I was getting at. If you are going out to try to stir up opposition to a measure that we are trying to do the best we can on, why there isn't much encouragement in that; you are not helping the real cause that you pretend to support.

Mr. MARSH. I sincerely support it, I admit that.

Mr. JONES. We are all trying to do something. And while some of your amendments might make the bill better, and we may be able to embody some of them, or we may not be able to embody any of them in the bill, we have got to take such action as we reasonably can, and we do not want somebody whom I believe really wants to see legislation, out in the bushes somewhere, as the expression is, stirring up trouble for us.

Mr. MARSH. Well, now, I want to put this in the record, right on that point. Some of our people came to us—and now I do not believe I should be asked to give their names—and said, "This bill as it stands should be defeated. It is no good at all."

Some of them intimated that there has been improper pressure brought to bear. I said, "That is not true. Now we have studied this bill, we do not understand all of it. I think the only fair thing to do is to go to the chairman and the members of the committee and ask for an opportunity to discuss all these provisions and measures and state our recommendations, and discuss with them what some of these provisions mean, because we do not understand them." We have done that, and I assure you that before any action is taken by me or anybody else to oppose any legislation which comes out of the conference report, we shall go over the matter most thoroughly. But of course we do have to reserve, don't we, the right to decide for ourselves; that is, the farmers' organizations and the other organizations, whether as the bill is finally reported it is sufficiently effective to make it worth while?

Mr. JONES. Sure.

Mr. MARSH. Or whether for the time being other agencies may better secure a moderate degree of control of the packers until we get a bill such as we feel is essential.

Now, in regard to the suggestion as to requiring the railroads to acquire the stockyards and refrigerator cars, which we think is very important—and I am speaking now of the Farmers' National Council and the Peoples Reconstruction League—we do not believe that at this moment it is practical to insist upon incorporating those pro-

visions in this bill. We have given that up, and we want to try to cooperate with you to the maximum.

The CHAIRMAN. What about section 15 of the Senate bill, Mr. Marsh?

Mr. MARSH. I want to take that up in conclusion. We believed that it was very important that something of that sort be incorporated. We did not draft a specific amendment on that, but suggest the wording in the Norris bill. I do not want to read the whole thing; it is a long one.

The CHAIRMAN. In that connection I want to insert the language in the record to show that all of that is provided for in the existing law. I will quote the language of the bill. I do not want to take up the time of the committee to do so now, but without objection I will put it in the record later.

Mr. MARSH. Of course that would be entirely germane.

The CHAIRMAN. I will quote from the law, and I think that will convince you that it is taken care of.

The CHAIRMAN. Give your suggestions and your views on the bill, and tell us exactly what you want done, and what you will do if we do not put it in. I want to put you on record to know where you stand.

Mr. MARSH. Well, Mr. Chairman, you have never had any difficulty about that.

The CHAIRMAN. I fear that your contention to-day is not in line with what you have stood for before. Of course, you have a right to change your mind; but when you come here and tell us that you have not had a chance to examine this bill, I simply come back at you and say that you have had an opportunity, and you have probably given it as much time as any of us.

Mr. MARSH. Yes.

The CHAIRMAN. And you have been very fair and have offered some very good suggestions here, but I want to have it clearly understood that you have had just as much time to examine these bills as we have, and I believe you have given it as much time. Now, you have a right to change your mind and to advance new ideas, new suggestions, but we are now up to the point where we have to decide on one thing or another, and we want to know exactly where you stand. If you are against the bill we want to know it, and if you are for the bill we want to know it.

Mr. MARSH. In this connection I ask the privilege of incorporating my previous suggestions with reference to this bill in the record. I wish to place my suggestions made to the little drafting committee, if that will be agreeable.

Mr. MCLAUGHLIN of Michigan. I think he has had quite a lot of time before this committee. Let us hear what the others have to say.

Mr. MARSH. I ask that opportunity, because I do not think it is quite correct to say that I have changed my position. I have elaborated my statements.

Mr. JONES. Haven't your suggestions been printed in the hearings?

Mr. MARSH. Yes, sir; my suggestions have been printed in the hearing.

Mr. JONES. They are a matter of record?

Mr. MARSH. Yes.

Mr. JONES. Well then, there is no use of going to the expense of reprinting them.

Mr. MARSH. Well, I would like to incorporate, if I might, the pages where they occur, so they can be looked up.

Mr. JONES. Yes.

The CHAIRMAN. I call your attention to the statement you just made that you are not insisting on some of the things that you were formerly insisting upon. You are changing your position from the position that you took before as to the furnishing of cars, etc.

Mr. MARSH. Yes.

The CHAIRMAN. Now you have a perfect right to do that. I am not criticising your action. But the committee wants to know exactly where you stand.

Mr. MARSH. I think I have stated it pretty clearly this morning. Now take up this question as to what is called voluntary registration, in the Norris bill. I cite this fact to you, that the very able gentlemen on the other side of the Capitol who drafted the Norris bill, probably were fully aware of all existing legislation on this matter. They felt—and I am not here to question, or raise a question as, to the relative ability of either committee—that some such provision as is incorporated in section 25 of the Norris bill to control the packers, on page 23 thereof, was necessary in order to encourage the development and the conduct of municipal, semipublic organizations, and of cooperative slaughterhouses, warehouses, and packing plants, and we believe that that should be incorporated here, or the substance of it

(The statement referred to by the chairman is printed, as follows:)

Mr. Marsh proposed as an amendment to the pending bill section 25, Title V, of the Senate bill, known as the Voluntary Registration of Packers and Stockyards, in which he claimed that certain advantages are provided for cooperative concerns and municipal abattoirs in case they voluntarily register with the Secretary and agree to abide by all the rules and regulations which he may establish for the regulation of their business. There are four provisions of section 25 which purport to extend certain benefits to those who voluntarily register. They are found in subdivision (d), pages 22 and 23 of S. 659 now pending before the Senate. The first provision makes it the duty of the Secretary: "(1) Furnish to registrants reports embodying existing knowledge concerning satisfactory and economical appliances and methods of food preservation by cold storage, freezing, cooking, dehydration, or otherwise, and of all improvements in the art, and to detail persons experienced in such art to consult and advise with registrants;" This provision is already covered by existing law. The agricultural appropriation bill, under the head of Bureau of Chemistry contains the following provisions: "For the study and improvement of methods of dehydrating materials used for food in cooperation with such persons, associations or corporations as may be found necessary and to disseminate information as to the value and suitability of such products for food, $23,500." It will be observed that the Department of Agriculture is now authorized to provide any citizen of the United States with the information contained in paragraph (1) of subdivision (d), section 25 of the Senate bill. The second provision of section 25 Senate bill is as follows: "(2) Cooperate with registrants in procuring for them adequate services by common carriers, by rail or otherwise, including provision for special cars needed in the proper transportation of live stock, live-stock products, or perishable foodstuffs." It will be observed that all the advantages offered in paragraph 2 is now provided for by the laws, rules, and regulations of the Interstate Commerce Commission and also by the Esch-Cummins Railroad Act. I quote from the following provisions:

SEC. 402. The paragraphs added to section 1 of the interstate commerce act by the act entitled "An act to amend an act entitled 'An act to regulate commerce,' as amended, in respect of car service, and for other purposes," approved May 29, 1917, are hereby amended to read as follows:

"(10) The term 'car service' in this act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this act.

"(11) It shall be the duty of every carrier by railroad subject to this act to furnish safe and adequate car service and to establish, observe, and enforce just and reason-

able rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

"(12) It shall also be the duty of every carrier by railroad to make just and reasonable distribution of cars for transportation of coal among the coal mines served by it, whether located upon its line or lines or customarily dependent upon it for car supply. During any period when the supply of cars available for such service does not equal the requirements of such mines it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such mines and to count each and every car furnished to or used by any such mine for transportation of coal against the mine. Failure or refusal so to do shall be unlawful, and in respect of each car not so counted shall be deemed a separate offense, and the carrier, receiver, or operating trustee so failing or refusing shall forfeit to the United States the sum of $100 for each offense, which may be recovered in a civil action brought by the United States.

The third advantage for voluntary registration contained in section 25 is found in (3) of the subdivision (d) and reads as follows:

"(3) Furnish to registrants all available information as to supplies of foodstuffs handled by such registrants and the location and movement and transportation costs of such foodstuffs." The substance of this provision is already provided for in the current appropriation bill for the Department of Agriculture. Under the heading of Bureau of Markets a provision is found which enables the Secretary of Agriculture to gather from stockmen, live-stock associations, State live stock and agricultural boards, common carriers, stockyards, commission firms, live-stock exchanges, slaughtering and meat packing companies and others, information relative to the number of different classes and grades of marketable live stock, especially, cattle, hogs, and sheep in the live-stock feeding districts and growing sections; prices, receipts, and shipments of the different classes and grades of cattle, hogs, and sheep at live-stock market centers; prices of meats, fish, and meat and fish food products and the amounts of such products in storage; to compile and publish such information at such frequent intervals as most effectively to guide producers, consumers, and distributors in the sale and purchase of live stock, meats, fish, and other animal products; and to gather and publish any related information pertaining to marketing and distribution of live stock, meats, fish, and animal by-products, the sum of $89,320; also, for acquiring and diffusing among the people of the United States useful information on subjects connected with the marketing and distributing of farm and nonmanufactured food products and the purchasing of farm supplies, independently and in cooperation with other branches of the department, State agencies, purchasing and consuming organizations, and persons engaged in the transportation, marketing, and distributing of farm and food products, $300,000: *Provided*, That not less than $20,000 shall be used for a study of the methods of prevention of losses by deterioration, decay, and freezing of fruits and vegetables in storage and in transit in refrigerator cars, heater cars, and ocean vessels, including demonstrations of such methods.

Fourth provision of the Senate bill offering advantages for voluntary registration is found in paragraph (4) of subdivision (d), page 23 of the Senate bill:

"(4) As far as practicable, when requested by any such registrant, provide for the inspection by agents of the commission of the live stock, live-stock products, or perishable foodstuffs received or distributed by such registrant to determine the quality, quantity, or condition thereof, and for the issuance by such agents of certificates showing the results of such inspection; and in the conduct of such inspections to cooperate with duly authorized local authorities. Such certificates shall be accepted in the courts of the United States and of the States as prima facie evidence of the quality, quantity, or condition at the time and place of inspection of the live stock, live-stock products, or perishable foodstuffs covered thereby."

This provision is also covered by the current appropriation bill as follows:

"For enabling the Secretary of Agriculture to investigate and certify to shippers and other interested parties the quality and condition of fruits, vegetables, poultry, butter, hay, and other perishable farm products, when received in interstate commerce at such important central markets as the Secretary of Agriculture may from time to time designate, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained, $141,700."

While this section uses the term "perishable farm products," we think it unquestionable that it would include slaughtered meats by any cooperative concern or municipal abattoir, but if there should be any doubt as to whether that language covers sufficiently paragraph (4) of the Senate bill, I call attention to the fact that in subdivision (a), section 25 of the Senate bill the following language is found:

"SEC. 25. (a) The commission may, upon application by any individual, partnership, corporation, or municipality, issue to such applicant a certificate of registration to engage in or carry on, under this Act, the business, whether in interstate or foreign commerce, or both, of conducting or operating stockyards, or slaughtering live stock, or processing, preserving, or storing live-stock products or perishable foodstuffs."

It will be observed by the very first paragraph of section 25 of the Senate bill that no cooperative association or municipal abattoir can register unless it is engaged in interstate or foreign commerce, or both. In such a case they would be required under existing law to have all their products inspected and passed by the Bureau of Animal Industry of the Department of Agriculture before it could be shipped in interstate commerce or offered for sale. Therefore all of the inspection service provided in paragraph (4) of subdivision (d) is amply covered by existing law.

I quote from the meat-inspection act of the Bureau of Animal Industry the following provisions relating to inspection:

"That hereafter, for the purpose of preventing the use in interstate or foreign commerce, as hereinafter provided, of meat and meat-food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary of Agriculture, at his discretion, may cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, and goats before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment, in which they are to be slaughtered and the meat and meat-food products thereof are to be used in interstate or foreign commerce * * *. That on and after October 1, 1906, no person, firm, or corporation shall transport or offer for transportation and no carrier or interstate or foreign commission shall transport or receive for transportation from one State or Territory or the District of Columbia, or any other State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States or to any foreign country, any carcasses or parts thereof and meat or meat-food products thereof, which have not been inspected, examined,and marked as 'inspected and passed' in accordance with the terms of this act and with the rules and regulations prescribed by the Secretary of Agriculture * * *."

"The Secretary of Agriculture shall cause to be made, by experts in sanitation or by other competent inspectors, such inspection of all slaughtering, meat canning, salting, packing rendering, or similar establishments in which cattle, sheep, swine, and goats are slaughtered and the meat and meat food products thereof are prepared for interstate or foreign commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat-food products are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, he shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as 'inspected and passed.'"

These quotations are ample to show the extent of the power of the Secretary of Agriculture under existing laws and the fact that all the advantages promised by the four subdivisions of section 25 of the Senate bill offered as an inducement for registration and the consequent surrendering of the right to control and operate the business for so doing. Even the certificate provided for in paragraph (4) subdivision (d) section 25 of the Senate bill is also provided for in the appropriation bill under the head of "Bureau of Markets" heretofore quoted.

Inasmuch as all the alleged advantages growing out of voluntary registration can be had from the Secretary of Agriculture and the Interstate Commerce Commission under the provisions of existing law without the requirement of registration, it seems unnecessary to duplicate laws on the same subject and require a person to surrender substantial control over his private business in order to secure that which is now provided for without cost and without price to the citizen.

Mr. MARSH. On page 3, line 20 of the Norris bill (S. 659) they have this definition of the term "corporation:"

The term "corporation" includes any public, quasi-public or other corporation or cooperative association, and any agency controlled or operated by any State, Territory, District or possession of the United States or any political subdivision thereof.

Now with full knowledge of existing legislation, the Senate Committee—and we hope you will reach an agreement on this—felt as we do, that in establishing here an agency—I do not like to use the words "Food supervision agency," but it is really tantamount to

that—investing in the Secretary of Agriculture certain powers to supervise the big packers and similar industries, that it was necessary that we should give some specific help, not financial assistance, but advice, cooperation, and other help to these independent cooperative packing plants, and municipal packing plants, warehouses, and slaughterhouses. And particularly, as I think the Chairman will recall, in the many very friendly discussions we have had over this, we call your attention to the fact that to-day most of the refrigerator cars are owned by the railroad, 91 per cent if I remember correctly; roughly 91 per cent of the refrigerator cars are owned by the railroads.

Mr. TINCHER. By whom?

Mr. MARSH. By the packers, I should have said. I beg your pardon, I misspoke. And the railroads have very few. About 91 per cent of the refrigerator cars are owned by the packers.

Mr. JACOWAY. Eighty-three per cent.

Mr. MARSH. Eighty-three per cent. I read you a letter which we recently got from the chairman of the Interstate Commerce Commission showing that the railroads had provided practically no refrigerator cars, and not only for the transportation of meat, but for other transportation purposes; that they have only provided about 4,000, I believe, since the Cummins-Esch law, which said they should do so, went into effect.

Now in this provision as to the registration with the Secretary of Agriculture, or whoever has charge of the enforcement of the act, it states that the Secretary shall cooperate——

The CHAIRMAN. Mr. Marsh, you have had over two hours. Will you kindly expedite this as much as you can.

Mr. MARSH. Yes, sir. On pages 25 and 26 of the Senate bill it says that:

(d) It shall be the duty of the Commissioner to:

(2) Cooperate with registrants in procuring for them adequate services by common carriers, by rail or otherwise, including provision for special cars needed in the proper transportation of livestock, live-stock products, or perishable foodstuffs.

Now that is provided in the Norris Bill. We believe that provision should be made in this bill.

Now, Mr. Chairman, I was interrupted, and I apologize for taking up any further time, but going back to your bill, on page 27 of your bill there is one little suggestion we wish to make in section (c), lines 17 to 19. We suggest that in line 18, after the word "prosecution," you cut out the words, "begun and pending at the time this act becomes effective," and simply add the following words, "under such acts." That is in your bill, Mr. Chairman.

The CHAIRMAN. What line is that?

Mr. MARSH. That is in line 18, following the word "prosecution," and then line 19.

The CHAIRMAN. What page?

Mr. MARSH. Page 27. To strike out the words, "begun and pending at the time this act becomes effective," and substitute for those words so stricken out the words, "under such acts." Believing that that complies with our suggestions as to making clear the relative positions of these other governmental agencies, and not interfering with their existing powers, which we think should be retained in them, with reference to the control of the packers.

I want to thank the committee very sincerely for your unusual and much appreciated proceeding in granting this hearing, and I assure you we want to go to the bat with you in getting the most complete legislation that we can get.

The CHAIRMAN. What do you say about the bill? Now what about the bill?

Mr. RIDDICK. I am really not satisfied with the way the record stands on this matter now. I do not want you to be put in the wrong light, and I do not want the committee to be put in the wrong light. I want to ask you if you do not believe that the lawyers and the farmers who make up this committee, and who have drafted this bill, have drafted a bill such as the public wants? I do not like to see your statement in the record that you are opposed to that bill. Do you not think that that bill is a long step in the direction that the public wants to go?

Mr. MARSH. I think it is an advance, but I would not say it is a long step; no. Because I think that there are so many misunderstandings, and this seems to be a criticism, but I do not intend it as a criticism of the committee—I think there are so many misunderstandings and such failures to deal with the exact situation, that I could not and I would not personally urge it, except as a last resort, and I have pointed out some of my reasons.

The CHAIRMAN. Are you for it or are you against it? Answer yes or no.

Mr. MARSH. I have answered that, and I will stand on it.

The CHAIRMAN. Well, yes or no. Let us have your answer.

Mr. MARSH. Now, Mr. Chairman, with all due deference——

Mr. MCLAUGHLIN of Michigan. What difference does it make whether he is for or agianst it. He is not a member of the committee or a Member of Congress. He has a perfect right to make his suggestions. We will take his suggestions for what they are worth.

Mr. TINCHER. An answer yes or no might not be fair. You remember the case of the man who was asked the question as to whether he had quit beating his wife. It might not be quite fair to ask him to answer yes or no in such a case.

The CHAIRMAN. Well, if you had a vote on this bill, would you vote for or against it as it stands?

Mr. MARSH. If I had a vote I would vote against this bill and for a stronger bill, and go on the floor of the House and give my reasons for it.

The CHAIRMAN. Then you are against it. You are absolutely fair about it.

Mr. MARSH. You have asked me personally. I can not commit the organizations. Personally I am against the bill as it stands, because I believe that if you really want to you can get a stronger bill.

The CHAIRMAN. Now, you are speaking for the organization. What is the organization?

Mr. MARSH. No; let me make that clear for the third time. I am not authorized on behalf of any of these organizations to say whether we are for this bill or against it. It seems to me a rather peculiar question to ask—and I will be perfectly frank—of those who have been working constantly, as the chairman knows, to get

strong legislation. I have no authority to commit the organizations, except by action which they have taken. You have asked my personal opinion, to which you are entitled.

The CHAIRMAN. We know the packers are against it. I want to know whether you are against it. Now, as I understand it, you are against it. I think we have a right to know.

Mr. MARSH. You have a right to know.

The CHAIRMAN. You have been asked that question a number of times.

Mr. MARSH. I have been asked that question a number of times, and I will also ask, if you will kindly state whether the packers are against it because it is too severe or not severe enough?

The CHAIRMAN. Well, I shall ask the representative of the packers that same question.

Mr. MARSH. You can get a show-down now.

The CHAIRMAN. I shall ask the packers that very same question. I want to get your answer now.

Mr. KINCHELOE. Can you conceive of the packers being against it because it is not strong enough?

Mr. MARSH. I can not, but can you conceive my being against it because it is too strong?

Mr. JONES. Let me ask you this question, Mr. Marsh. If you were a Member of Congress and came on the floor of the House and offered all the amendments that you have suggested to-day, and they should all be voted down, and you came up at the end of the hearing in Congress on the bill with all of your amendments voted down, and you had tried in every way to strengthen it, and then the question came up as to whether you would be for or against this bill, voting for this legislation or no legislation, how would you vote?

Mr. MARSH. If I felt that it was the best that could be gotten I would vote for it. If I felt that it was not, if I felt that the enactment of this legislation would prevent real legislation, I would follow the customary practice of my life, which has kept me poor, and I would vote the way my conscience dictated, and vote against it.

Mr. TINCHER. You are like the fellow who took the position in regard to the tariff that he believed when the tariff was too low it ought to be raised, and that when the tariff was too high it ought to be lowered.

The CHAIRMAN. We are very much obliged to you, Mr. Marsh.

Mr. MARSH. In conclusion, Mr. Chairman, I wish to say that I am sure you gentlemen can strengthen this legislation, and when it is adequately strengthened we will be right back of you.

FURTHER STATEMENT OF MR. CHARLES A. LYMAN, SECRETARY NATIONAL BOARD OF FARM ORGANIZATIONS, WASHINGTON, D. C.

Mr. LYMAN. Mr. Chairman, I want to say that I have followed Mr. Marsh's statement very closely while he has spoken on these amendments.

The CHAIRMAN. Are you for or against the bill? Can you give us an answer on that?

Mr. LYMAN. I will say that I indorse Mr. Marsh's position. It is a rather unfair question to ask, I think, at this time. I feel that you can get some of these amendments. I believe——

The CHAIRMAN. We are not talking about amendments. We are talking now about the bill as reported. Are you for it or against it? You are for the amendments, of course.

Mr. LYMAN. Yes, sir. I think it is a step in the direction that we are aiming at.

The CHAIRMAN. Well, you are for it?

Mr. LYMAN. To that extent; yes.

Mr. MARSH. But, Mr. Chairman, please do not construe anyone who is saying that he is for this bill as encouraging you to let up in trying to get amendments to strengthen it.

The CHAIRMAN. We understand your position on that.

Mr. JONES. Yes; we understand your position, and I don't blame you for that.

The CHAIRMAN. We understand that you are for amendments if you think they will strengthen it. But the question is: If you can not get them, are you for the bill?

Mr. LYMAN. To that extent; yes, sir.

The CHAIRMAN. If there is nothing more, the committee will now go into executive session.

Mr. HOWARD M. GORE. I would like to make a statement, Mr. Chairman, if I may have the opportunity to do so.

The CHAIRMAN. Very well.

STATEMENT OF MR. HOWARD M. GORE, OF CLARKSBURG, W. VA.

Mr. GORE. I want to support Mr. Silver in his suggestion of the amendment on page 28, in line 12, adding the provision of giving the President the authority, Congress having, I understand, that authority, if it is not too serious a transgression of the manner in which you draft law. Of course we must all bow to that. But I want to support the position taken in regard to that.

As you have noticed, there are a number of differences of opinion; the country has been surfeited with opinions, a great many of which are based on partial information, a part of which is sound, but the country has been generally misinformed, and a great many folks here in your city believe that if you pass this law, or if you pass it as it has been suggested by other men here this morning, that the price of beefsteak will go down 25 cents a pound to-morrow. Or the farmer over in my State has the idea that possibly if some legislation is adopted, the price of his cattle will go up 5 cents a pound. You gentlemen know that is not true. I know that it is not true. I am a farmer, and I speak for no organization. I just wanted to make one statement.

The CHAIRMAN. Let me ask you: Are you satisfied with the bill?

Mr. GORE. If you gentlemen believe that that is the best bill you can pass, I am for it.

The CHAIRMAN. Well, your organization, will it receive its unqualified support?

Mr. GORE. Undoubtedly, sir, if you gentlemen believe this bill is a direct step in the right direction. While I would like to see some

changes made in it, if it is the best we can get, I am for it, and I think you gentlemen are entitled to the thanks of the country.

If this matter reposed in the hands of the President, and he may utilize the Federal Trade Commission to investigate a complaint carried direct to him, it gives that much supervising effect, so that the folks back home may really feel that they may have the benefit of the executive support in an investigation of that kind, and I think that that is largely, gentlemen, of advantage from a moral standpoint. But I don't mean to urge it if it too seriously transgresses the usual rules of legislation.

Mr. TINCHER. Don't you think the folks back home pretty generally understand that the President has considerable influence with the Secretary of Agriculture?

Mr. GORE. Absolutely, sir, absolutely. As I say, Mr. Tincher, I think it is more for the moral effect.

Mr. TINCHER. He has two or three weekly meetings with the Secretary of Agriculture.

Mr. GORE. Yes; but you understand that if that were contained in the bill it would be notice on everyone who criticizes the bill that they still would have an appeal to the President.

I think, gentelmen, you are entitled to the appreciation of the country for the fact that you will give authority in this bill for the establishment of an agency which, if there is an abuse existing in the Chicago Stock Yards, or among the Chicago packers, or at any other place, can go and make an investigation and determine whether that abuse does or does not exist, and it therefore removes all the basis for this misinformation or partial information that is being handed out. And folks are continually milling and milling about a proposition concerning which they are only partially informed.

I see the gentlemen representing the packers sitting here. Some one asked me if I shook hands with my packer friends, or this man or the other man, and some people would say, if they saw me speaking to one of them: "Oh, he is on that side," or, if they saw me speaking to a member of a farm organization, they would say that I am on that side. Gentlemen, I want to say that I am an American citizen, and I feel that we should be able to pass to and fro among our friends without that feeling that we are criminals.

And I want to say that you are not going to accomplish any great things in the reduction of the price of this, or the increase of price of that; you are simply going to assure the country that if they feel that an abuse exists, that a real investigation will be made into the situation, and it will be found out as to whether it does or does not exist.

I thank you.

The CHAIRMAN. Thank you very much, Mr. Gore.

Are there any others who have any suggestions or amendments to make? Are there any of the representatives of the packers who have any amendments or suggestions to make? There have been quite a good many offered by them.

Mr. LIGHTFOOT. Mr. Chairman, I would like, with your permission, to say a few words.

The CHAIRMAN. Kindly proceed.

STATEMENT OF MR. J. P. LIGHTFOOT, GENERAL COUNSEL FOR WILSON & CO., CHICAGO, ILL.

Mr. LIGHTFOOT. These matters have all been very thoroughly thrashed out. I want to take this occasion, however, to make this observation. There seems to be prevalent in the minds of some, that the packers are indorsing this legillation, or that the packers are favorable to this bill. Many of these suggestions have been offered with the idea that the packers now have decided to accept this bill because it is a very mild bill. I think there has been some discussion on the floor to that effect.

I want to make it plain to the committee that the packers are no more in favor of this legislation now than they were in the beginning. You have had before you at this hearing packers who said that they thought nothing would be accomplished by this legislation; that the fundamental troubles with the whole proposition are economic, which can not be reached by legislation. They have not changed their minds. I think it is well to bear that in mind.

Some of the packers—and one, particularly, whom I have the honor to represent—did make this statement before this committee, that there was a psychology existing in the public mind that could not and would not be satisfied until some character of legislation had been enacted that would give more complete supervision and greater publicity to the business of the packers. That if such a bill could be devised along constructive lines, that would not be destructive of this highly organized industry, that he would not oppose it personally, feeling that when such supervision is provided, it would furnish a common meeting ground upon which the producers of this country would then be willing to cooperate with the packers in eliminating some of these questions which are economic and can not be reached by legislation. The chief of which is the unscientific and uneconomic manner in which the live stock of this country is marketed.

There is nothing in this bill that undertakes to regulate the producer at all in the matter of marketing his products. That can only be accomplished by cooperation. The producers won't cooperate with the packers to-day, becasue they fear that it will in some way interfere with the necessity of lgeislation. They feel, and probably justly so—and I am not criticising them—that after you get the machinery of this legislation in operation, they then will be willing and able to cooperate.

I want to make it plain for the benefit of this committee that the fact that the packers are not active in their opposition is no indication that they have changed their position in any sense whatever. But they feel like this committee feels, and like Congress feels, and like the country generally feels, that something of this kind must happen before you can bring about peace and cooperation in this industry.

Now, on the question of these amendments. Of course I have not seen them. I have heard them read—some of them. I think that the amendment suggested by the Farm Bureau, the first one, is already covered in the language of the act. It is unnecessary to clutter the bill with an elaboration of that, because it is already included. But if the committee thinks that it should be elaborated,

why certainly I should not oppose it, because I think it is already in there, and it is satisfactory.

Now, on the proposition of retaining the jurisdiction of the Federal Trade Commission, subject to the orders of Congress and of the President to make any future investigations, it seems to me that that is a wholly unnecessary provision in the law, because the Federal Trade Commission is always subject to any law or joint or concurrent resolution that might be passed by the Congress. Congress can at any time, by adopting a law or resolution having the effect of law, require them to investigate anything in this country. They can change the law, for that matter, at any time they desire.

The bill does not, as it now stands, leave, in my opinion, that power in the President. The Federal Trade Commission act provides specifically that the President may order it to investigate anything. I think that the effect of the bill as it now stands would be to terminate the jurisdiction of the Federal Trade Commission, so far as its power to investigate is concerned, subject to the command of the President, unless some such provision as that is placed in the law keeping that alive. But I think that is wholly unnecessary, for this reason, that all the powers that can be exercised by the Federal Trade Commission on that point are vested in the Secretary of Agriculture.

Now, the Secretary of Agriculture is an appointee of the President. He is a member of his Cabinet. He sits around his table. He is subject to his orders. And it is inconceivable to me that any Secretary of Agriculture, if requested by the President to make an investigation within his jurisdiction, that he would not obey. And he can exercise, to the full extent, all the powers that the Federal Trade Commission now exercises.

Mr. VOIGT. Let me interrupt you there, Mr. Lightfoot.

Mr. LIGHTFOOT. Yes.

Mr. VOIGT. The only question that occurs to me there is this: Suppose the President should ask the Secretary of Agriculture to make an investigation on a certain subject. The Secretary might not have the accounting force and investigating force that the Federal Trade Commission now has, and probably would have at that time.

Mr. LIGHTFOOT. Well, of course if he did not have, that would be presenting a different question. But I take it that if you invest the Secretary of Agriculture with these powers, he is going to function under this law, and must provide himself with the necessary machinery. I think it will not require very much to do it even now. He has many such agencies now: The Bureau of Markets and the Bureau of Animal Industry, and the Bureau of Chemistry. Their agents are swarming through our plants all the time. We are operating now under the Government eye. We are the most supervised industry in this country to-day in the absence of any such law, the most supervised of any industry in this country.

Mr. TINCHER. Mr. Lightfoot, the question of whether we leave duplicate authority there with the Federal Trade Commission and Department of Agriculture, whether we retain the two investigating branches of the Government for your institution, is a matter that

concerns the economic attitude of the Congress more than it would of the packers, anyway.

Mr. LIGHTFOOT. I think so.

Mr. TINCHER. What difference would it make to you which branch investigates you?

Mr. LIGHTFOOT. It does not make any difference. We are perfectly willing for the Government to have the most complete information that they desire. We have always stood for that from the very beginning. We have stood for supervisory legislation; that is, some of the packers have.

Mr. TINCHER. Here is what I am getting down to: What difference would it make if the President would use the Federal Trade Commission or the Secretary of Agriculture to make an investigation? If Congress were willing to have the two departments maintained for that purpose I would not pay much attention to what you thought about it or what some one else thought about it, but it is a question that rather addresses itself to Congress whether we are willing to keep up these two institutions.

Mr. LIGHTFOOT. What we want to keep out from under, Mr. Tincher, is dual authority, where it can be exercised by two different branches of the Government and conflict might arise between them that would tend to confusion.

Now, I want to address myself to one other question, and that is the question of changing the word "shall" to "may."

Mr. TINCHER. Bookkeeping.

Mr. LIGHTFOOT. The bookkeeping, accounting proposition. I agree with Mr. Silver on that, that the word "may," there as it stands, is practically synonymous with "shall." In other words, what is the situation? If the Secretary finds that we are not keeping our books and accounts so as to disclose all of these transactions, then he may, as it now reads, prescribe the manner and form in which they shall be kept. Now, that vests in him a discretion. I think that there may be some doubt if you change the word to "shall" that if he found one account, for instance, deficient in some respects, which did not disclose fully all the details as he wanted them disclosed, that he might not be required under the word "shall" to install a complete system from stem to stern for the packers.

Mr. KINCHELOE. Let me interrupt you there, Mr. Lightfoot. Would it not be likely to happen, further, that if you make it compulsory there, that notwithstanding your set of books may be satisfactory to the Secretary of Agriculture, if he is compelled to do it, he may have to set in vogue a universal, new system of bookkeeping, by which you shall all have to go?

Mr. LIGHTFOOT. Yes. In fact, that is one thing that the committee ought to give very great consideration to. The difficulty that has been manifested here, even among the producers who are represented by their agents here, the farm representatives, I mean, in themselves arriving at what ought to be done, shows to you what the difficulty is in this thing; and I want to say to you now that the Institute of American Meat Packers have for two years, through their auditors and through a committee selected for that purpose, been trying to devise some uniform system or a more uniform system than now exists. It is one of the most difficult problems. Take the packers. They are not like the railroads that have a certain field of

operation. There are no two packers alike; there are no two packers engaged in the same line of business, to the same extent, and if you begin to fixing an ironclad rule without discretion on the part of the Secretary of Agriculture in relation to that matter, you are likely to have a situation where you would be compelled to cause a little cooperative plant, such as they have spoken of here, to adopt the same system, to have the same departments, to install the same character of books and accounts that Swift & Co. or Armour & Co. or some of these other big concerns now have or would have, which would break any small concern if they tried to do it. And I think that is a matter that can be clearly left to the discretion of the Secretary of Agriculture. If you can not trust a Cabinet officer in this country to deal with this problem, why then I think that the situation is such that very serious concern should be given to our form of government.

I want to say this much, gentlemen, that the reason I rise now is that in the beginning one of the members of the committee asked me if I would undertake to prepare a constructive bill—whether we would be willing to cooperate to that end—and I have sincerely and earnestly attempted to cooperate with this committee in an effort to get a bill that will not strangle this industry to death and will not make it impossible to exist, and I say that even in the form that it is now this bill without an amendment, even as your committee has already reported it, it is the most far-reaching and comprehensive legislation that has up to this time been enacted by Congress for the control of private business in times of peace in the history of this country, and if the packers can exist under it they will do well.

If the general powers you have incorporated in that bill are abused at all, or are arbitrarily used, you are giving to a single governmental agency the power to destroy this great industry as it is organized, and I can demonstrate that to anybody, I think, that would give the time to hear the argument, which I would be glad to make if time permitted.

Now I want to say to you, and I think it ought to be made clear on the floor of the House in these debates, that the packing industry has not indorsed this legislation, but they recognize—and I am frank enough to say it—that something must be done along this line before we can ever reach a place where this trouble is going to be cleared up. But do not destroy the industry in trying to reach that point. Here you have the most complete supervisory, visitorial, inquisitorial and regulatory power. I use the words "regulatory power" because under the general power contained in section 203 there is a power which is broad, general, and undefined, which can be exercised by the mind and will of the Secretary of Agriculture, who can come pretty nearly telling you what to do in every transaction from the time cattle or live stock arrive at the stockyards until they are delivered into hands of the retailers in this country.

I thank you.

Mr. TEN EYCK. Mr. Lightfoot, just a moment. I would like to ask you a question. On page 28, in line 12, where there have been some suggestions of amendments by both sides, would an amendment of this kind do any harm to the public or the packers or anyone else interested—that is, adding the following: "And in any case where it appears necessary to the President that an agency of the Government

should take steps to make an investigation of the packer or person within the meaning of this bill, he may direct such agency to so proceed."

Mr. LIGHTFOOT. I do not quite follow you. Let me get that again.

Mr. TEN EYCK. I have written it out here.

Mr. LIGHTFOOT (reading):

And in any case where it appears necessary to the President that an agency of the Government should take steps to make an investigation of the packer or person, within the meaning of this bill, he may direct such agency to so proceed.

Mr. KINCHELOE. I think that resolves itself, Mr. Chairman, into the question whether this committee wants to continue to adopt the policy of having duplication in this Government.

The CHAIRMAN. Are you through, Mr. Lightfoot?

Mr. LIGHTFOOT. I am willing to answer that question if you want me to answer it.

Mr. TEN EYCK. Yes; I would like to have it answered if you will, Mr. Lightfoot.

Mr. LIGHTFOOT. I think it is a fair question. You asked me whether or not that kind of an amendment would be objectionable or would operate to the disadvantage——

Mr. TEN EYCK (interposing). Or would operate to the disadvantage of the consumer or producer.

Mr. LIGHTFOOT. Yes; of the consumer or producer. I would say this: I would not be understood to oppose any suggestion by this committee to vest in the President of the United States any discretionary power that you might see fit to vest in him. But I think it is unnecessary. Because I think the President can, under this bill as passed, effectively do that thing through the agency of his Secretary of Agriculture, and if the Secretary of Agriculture refuses or fails to do it, he can ask for his resignation, and appoint a man that will do it. But if the committee thinks—and this is in line with Mr. Silver's suggestion—that it ought to be in there, why I would not say that I see any objection to the President being given such discretionary power.

I thank you.

The CHAIRMAN. Is that all? Thank you, Mr. Lightfoot.

Mr. LYMAN. We would be very much obliged if the committee would permit a gentleman here, Mr. Tator, to make a short statement.

The CHAIRMAN. How much time do you want?

Mr. TATOR. Only a couple of minutes. I would like to clear up a few misunderstandings as to the uniformity of accounting in the packing industry.

The CHAIRMAN. Well, how much time do you want?

Mr. TATOR. Well, that will be entirely up to you, Mr. Chairman.

The CHAIRMAN. You said you only wanted a couple of minutes.

Mr. TATOR. Well, I would like if you would give me five minutes. I only have a few remarks to make, but I consider that the matter is rather important and would like sufficient time to make a statement.

The CHAIRMAN. All right; you may proceed.

STATEMENT OF S. W. TATOR, OF THE UNITED STATES GRAIN GROWERS (INC.), 1900 MALLERS BUILDING, CHICAGO, ILL.

Mr. TATOR. Mr. Chairman and members of this committee, I want to discuss particularly those provisions of your bill which deal with the matter of uniform accounting. In section 401, page 25, you pro-

vide for the installing by the Secretary of Agriculture of such accounts for every packer as will disclose fully and correctly all transactions involved in his business, including the true ownership of such business. You do not specifically state that the Secretary may prescribe for all packers a uniform accounting system. It is the intention of the amendments offered here this morning to make this section 401 very clear on this point, and it is my purpose to discuss the necessity for having uniform accounts if you expect to have the Secretary of Agriculture adequately carry out your intentions in drafting this bill.

But before doing so I want to lay the basis, by discussion of section 402, for my remarks. Referring to section 401 for just a moment, a careful analysis of the wording does not disclose any power given to the Secretary of Agriculture to require reports, nor is it definitely stated how he shall find out whether or not the packers' accounts are correctly kept. This section does not provide for giving the public information with reference to the packing industry which would come to him if he had the power to require reports. It seems, therefore, that in transferring the powers of the Federal Trade Commission, as given to it in sections 6, 8, 9 and 10 of the act entitled "An act to create a Federal Trade Commission," as you attempt to do in section 402, that you have in mind by this method of transference of powers to back up section 401. I want to speak on that point also in connection with what I have to say with reference to the matter of uniform accounting.

I was formerly employed by the Federal Trade Commission and had charge of the investigation of the packers' accounts when that investigation was first started, in July, 1917. At that time we had more than 30 men engaged in a study of the accounts of the five big packers at Chicago. We spent several months compiling cost figures from the books of each of these five big packers. And after several months' work had been done we found that it would be impossible to use the figures which we had compiled. This was due to the fact that the accounts of each packer were not kept in such a manner that they could be made comparable.

For illustration, you could not take the accounts of Armour & Co. and put them alongside of those of Wilson & Co. and expect that they would mean the same. To a certain limited extent they would, but in the main there were so many differences in the way the accounts were stated and kept that the comparison would be very dangerous. Realizing this, the Federal Trade Commission decided to abandon that part of the work.

Several months later—in fact, in March, 1918—Mr. Hoover, who had undertaken control of the packing industry, asked President Wilson to appoint a meat commission consisting of the Secretary of Agriculture, the Secretary of Labor, the chairman of the Tariff Board, the chairman of the Federal Trade Commission, and himself. He stated that conditions were such that he needed the help of such a commission to advise him as to what should be done to clear up the matter of properly handling the packers. His investigators had discovered that the reports of the packers were not uniform, and that it would be impossible to correctly determine their profits. And this was defeating the regulation which had been set up.

I sat in on the discussions of this commission for several weeks, and one of the final results of the work of that commission was that a

recommendation was made that the Federal Trade Commission should be immediately requested to undertake the installation of uniform accounts for the packers.

This work was begun in June, 1918, and I participated in it. We were making very good progress, and we had, to a certain extent, the cooperation of the packers, as they admitted that uniform accounting would be a good thing.

With the signing of the armistice there was considerable uncertainty as to the powers of the Food Administration, and shortly after that time it was decided to abandon the work which had been under progress for several months.

Now, it seems to me that it has been very clearly established as a result of this experience on the part of both the Federal Trade Commission and the Food Administration that the installation of uniform accounts for the packing industry is absolutely essential if we are to have any degree of control over them. I am sure that Mr. Wallace recognizes this, and his testimony before this committee discloses that he does. Mr. Hoover has also gone on record publicly as to the need of more information about industries in order that the public may know the full facts.

Now, Mr. Lightfoot has been speaking here this morning about the difficulties and the injustice that might be occasioned to the packers if you attempted to install uniform accounts. He has undoubtedly heard what I have said to you, and he knows that I have been telling you facts about the situation. It seems to me, therefore, that it has been very clearly established that uniform accounting must be an essential feature of this bill.

Now, if I may discuss for a moment the power that you are giving to the Secretary of Agriculture, first of acquiring information about the packers' accounts, and second as to how it may be made public.

Mr. Marsh has offered here an amendment to the first two lines of section 402, on page 25, which I think deserves your very careful consideration. Very recently the Federal Trade Commission, in its letter to President Harding dealing with the high cost of living and the reasons for the failure of retail prices to decline in proportion to the decline in prices of agriculture and other basic commodity prices, stated that it would be very beneficial if information could be regularly given to the public with respect to basic commodity costs and prices. They pointed out very clearly that at the present time they are under injunction from the courts, which has prevented them from securing costs in the coal industry and the steel industry.

It appears that the powers given them in the sections which you propose to transfer to the Secretary of Agriculture are not clearly stated nor sufficient to serve their needs, and the courts have ruled that they can not proceed to secure the information they need.

I can not conceive that you desire to transfer to the Secretary of Agriculture a piece of property which has a cloud on its title, and yet this would seem to be the case unless you amend section 402 so as to clear it up. If you do not clear it up it is conceivable that the Secretary of Agriculture will be in the same position some day that the Federal Trade Commission is at present in this respect. I think the amendment offered here will give him the powers that you must recognize he needs if he is to not only secure the information, but make it public. I think your bill ought to be very clear on this point, and the only way to make it clear is to be very specific.

Mr. KINCHELOE. Do you not think the Secretary of Agriculture will see that, and that he has the power to undertake it?

Mr. TATOR. I think the Secretary of Agriculture will see that; in fact he has already stated to this committee his thoughts on that matter, and it is my intention only to point out further reasons why this must be clearly provided for in the bill if it is to be effective.

I am very much in sympathy with the suggestions which have been made here this morning by Mr. Marsh and Mr. Lyman with reference to amendments to this bill. I have worked with these gentlemen during the past week, and have helped them as much as possible in drafting these amendments, because from my experience in the packing investigation I knew that it was absolutely essential to clear up certain points in your bill. The only purpose these gentlemen have had in offering these amendments is that the bill shall be so guarded that you will give the Secretary of Agriculture the power he needs to enforce its provisions. It seems to me that legislation should be as clear cut as possible so that the courts will have as little doubt as possible as to what you intended those powers to be.

It has been my observation that the courts are usually very conservative in interpreting the provisions of the law when it comes before them. They are not going to interpret into the law something which you intended should be there unless it is quite clearly stated.

Mr. KINCHELOE. Has not the tendency been, on the part of the courts in construing legislation in modern times, to get at the intent of the legislation?

Mr. TATOR. They can only go a certain distance in that respect. They can not go beyond certain limits.

Mr. TINCHER. Are you testifying as a lawyer?

Mr. TATOR. I am testifying as an expert accountant, Mr. Tincher, and I am offering my suggestions from such knowledge of the law as I have acquired in my work, which, although it is not sufficient to qualify me as a lawyer, I feel does give me the privilege and the right to discuss that point, so far as I have done so this morning.

Mr. KINCHELOE. You are not keeping up with the recent decisions of the highest courts of the country if you say that they do not have a tendency to construe the intent of the legislation.

Mr. TATOR. Congress has gone on record several times as to certain matters of legislation which decisions of the courts have upset. I can illustrate this point by referring to the child-labor laws. It has been necessary for Congress to reenact these laws because decisions of the courts have nullified their previous actions. I think this illustrates that the courts did not in those cases interpret the intent of Congress, as Mr. Kincheloe has suggested, otherwise Congress would not have gone on record again in this respect. At least that is my thought on that matter.

It is my feeling that the tendency of the courts is usually to be conservative, and I think most of us want them to be conservative to the extent of interpreting legislation in the way it was intended. It therefore seems to me that legislation should be stated so clearly that even the average man can understand what was intended.

If I interpret the duty of this committee correctly it is to draft a bill which will clearly set forth the method for correcting conditions which need to be corrected. Congress imposes upon you as a committee the job of investigating and ascertaining the evils which exist,

and then it becomes your duty, as I interpret it, to draft a bill which will meet the needs in this respect.

It has been stated here several times this morning that this is the best bill that your committee found it possible to present. I think there has been an implication several times that the committee would like to have put other provisions in the bill. But you have implied, at least as I understand it, that you do not think Congress would consider certain other provisions if they were in the bill. It is my feeling that that is a matter to be left to Congress Personally, if I were a Member of Congress, I would prefer to have a bill presented to me by this committee which I knew absolutely covered the situation, and then if I was dissatisfied with it I would like to offer amendments to it.

I think the responsibility rests on this committee for the drafting of a bill which shall be clear in every respect, and which will adequately meet the situation. After you have done that, if the other Members of Congress decide to change it, then they must take the responsibility for the bill in its final form. It is my feeling that the public at large, if they are not satisfied with this bill—and I do not believe they will be satisfied if the bill in any way represents a weakening or letting down of present laws—the public, I say, eventually will hold Congress responsible for any condition which arises as a result of this legislation.

The CHAIRMAN. We have given considerable time to those who have appeared this morning, and unless there are further questions by the members of the committee, the committee will now go into executive session.

(Thereupon, at 1.05 o'clock p. m., May 28, 1921, the committee went into executive session.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Tuesday, July 19, 1921.

The committee met at 9 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Tincher, Mr. Sinclair, Mr. Hays, Mr. Clague, Mr. Clarke, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

The CHAIRMAN. I will ask the clerk to read the following request which has been received.

(The clerk read as follows:)

WASHINGTON, D. C., *July 18, 1921.*

Hon. J. W. HAUGEN,
Chairman Committee on Agriculture,
House of Representatives, Washington, D. C.

DEAR SIR: In reply to your letter of July 11, sent to the representatives of the National League of Woman Voters, National Consumers' League, National Grange, the Farmers' National Council, the Peoples' Reconstruction League, American Society of Equity, National Board of Farm Organizations, National Farmers' Union, Kansas Farmers' Union, Pennsylvania State Grange, the National Milk Producers' Federation, Farmers' National Congress, Wisconsin Society of Equity, Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Engineers, Order of Railroad Conductors, and Brotherhood of Railroad Trainmen, we wish to call your attention to the fact that we requested in our communication that the present power of the Federal

Trade Commission be left unimpaired, and emphasized the danger so apparent to us of enacting a law which will remove the power of either branch of Congress to call upon the Federal Trade Commission to investigate any branch of the meat-packing industry.

The right of either branch of Congress to call upon this arm of the Government is one of the greatest safeguards which the American people now have.

We asked in our letter that a concurrent resolution be passed instructing the conferees appointed to consider the bills that passed the Senate and House to restore in this legislation the power that the Federal Trade Commission now exercises.

We call to your attention your promise to us to bring this matter before the House Committee on Agriculture. May we ask that this meeting be called and the matter determined this week and that our representatives be permitted to appear and state the reasons for our request?

Very truly, yours.

The CLERK. This is signed by various persons, the heads of the various organizations named above.

Mr. ASWELL. Who got up that propaganda, do you know? Who organized it and worked it up?

The CLERK. I will read the names.

Mr. ASWELL. I do not mean that, because anybody can sign it; but I mean who worked it up and started it going; you do not know, do you?

The CHAIRMAN. The Chair had no authority to call a meeting for that purpose and did not call the meeting for that purpose, because we have special orders here, and the meeting has been called this morning to hear representatives of the Agricultural Department on the filled milk bill. However, in view of the request, the chairman could do nothing less than lay the matter before the committee.

Mr. ASWELL. I have no objection whatever to that, but I was simply curious to know about it.

Mr. KINCHELOE. Mr. Chairman, I would suggest that this meeting has been called for another purpose, and I think the full committee ought to be here when we consider that proposition.

The CHAIRMAN. It is simply a question of whether you will hear these people now or not.

Mr. KINCHELOE. That is just what I am talking about. I understood we had met here for another purpose.

The CHAIRMAN. It is for the committee to determine what it will do. I doubt very much if we will get a very large attendance this morning.

Mr. CLAGUE. Let us go ahead if the other people are here.

The CHAIRMAN. The representatives of the department are here and also the representatives of these various organizations.

Mr. ASWELL. What was the meeting called for this morning?

The CHAIRMAN. The meeting was called this morning to hear the representatives of the department on the filled milk bill.

Mr. KINCHELOE. That is the point I am making, Mr. Chairman. When I heard the committee was meeting at the early hour of 9 o'clock this morning it sort of surprised me, and I asked what the hearing was on, and they said it was on this filled milk bill, and that the chief of the Dairy Division would be here, and I was in hopes that the chief of the Bureau of Chemistry of the Department of Agriculture would also be here. If he is here, let us hear him. I have no objection to hearing about this other proposition later, but I think the committee ought to be notified when that matter comes up so that they may know what they are coming here for and so there can be a committee here to hear them.

The CHAIRMAN. Will the committee decide to hear these people now or at a later date?

Mr. SINCLAIR. It seems to me we ought to hear them at this time, inasmuch as they are here, if it is not going to interfere with the filled-milk hearing. Of course, I think the filled-milk bill should have the right of way.

Mr. TEN EYCK. Mr. Chairman, my idea is that if the introducer of the filled-milk bill is not here and if there is no one else here to be heard on that bill, and these other people want to be heard, we might save time by hearing them now.

The CHAIRMAN. How much time do you want?

Mr. MARSH. We would like perhaps 15 or 20 minutes, if you could spare it, in view of the fact that every signer of these organizations is very glad to be accused of being the leader of propaganda to save the Federal Trade Commission. If Congress——

Mr. KINCHELOE. Who are you referring to there?

Mr. MARSH. Anybody who wants to abolish the Federal Trade Commission.

Mr. ASWELL. Who wants to abolish it?

Mr. MARSH. I do not know.

Mr. ASWELL. Then why do you make that insinuation?

Mr. MARSH. That is, so far as Congress is concerned. I do know that the big interests want to abolish the Federal Trade Commission.

Mr. KINCHELOE. So far as I am concerned, I want to tell you right now that so far as your insinuations around here are concerned, I stand on my responsibility as a Member of Congress, and I think the farmers of my district know my attitude, and what you say to me does not have any effect in the world. I will be very glad to hear the rest of them, but I have heard you until I am tired.

Mr. MARSH. I would be very glad to wait until I had a full meeting of the committee, and I will give you a list of the big interests, starting with the United States Chamber of Commerce, who want to abolish the Federal Trade Commission, including the packers. I will point out to you things in the record——

Mr. KINCHELOE (interposing). Let us proceed in the regular way, Mr. Chairman. What is going to be the procedure of the committee this morning?

The CHAIRMAN. The procedure of the committee was to hear the representatives of the department. I have laid this request before the committee, and it is for the committee to determine what action will be taken.

Mr. ASWELL. Mr. Chairman, are we going to hear the gentlemen or are we going to hear these ladies? If we are to hear these ladies, I wish to hear them, but I do not care to hear Mr. Marsh this morning.

Mr. KINCHELOE. Miss Rankin, how much time do you want?

Miss RANKIN. Fifteen minutes.

Mr. ASWELL. I move, Mr. Chairman, that Miss Rankin be heard for 15 minutes.

Mr. MARSH. I would like to make a request for the same opportunity.

(The motion, having been duly seconded, prevailed.)

STATEMENT OF MISS JEANNETTE RANKIN, FIELD SECRETARY, NATIONAL CONSUMERS' LEAGUE, WASHINGTON, D. C.

Miss RANKIN. Mr. Chairman and gentlemen of the committee, I am here representing the National Consumers' League. This is an organization that has been working for 22 years in the interest of the consumer. Mrs. Florence Kelly has been the general secretary of that organization and I have been their field secretary for about a year. We have been very much interested in the packer legislation—and in speaking of the packers, I mean the five big packers—because we appreciate that they have a very large control over a large proportion of the food supplies of the people, and so we have been interested in this legislation from the beginning.

We have also been very much interested in the work of the Federal Trade Commission, because we feel that that is a commission which has given facts to Congress and to the people in a way that has been very helpful in making it possible for the people to know what is going on; and we feel that the power that Congress now has to order an investigation by the Federal Trade Commission—the power of either branch of Congress to order such an investigation—was a very great safeguard to the people, and we are very fearful that this bill may be interpreted to take away from the Federal Trade Commission the power to investigate certain industries, aside from the meat-packing industry. For instance, take the shoe industry or the cheese industry, if the Federal Trade Commission were investigating that and found that a certain part of that industry was in the packing industry, they would be blocked there until they got cooperation from everyone concerned.

Mr. SINCLAIR. That is, under the bill that has been passed.

Miss RANKIN. Yes; under an amendment that was put on the bill. I think it is amendment No. 16 in the Senate. We are here to-day to ask that the powers of the Federal Trade Commission be safeguarded, so that they will not lose any of their power to investigate other industries.

Mr. ASWELL. Would you remove the control of the Department of Agriculture from the packers?

Miss RANKIN. No.

Mr. ASWELL. Would you leave the packing industry under the Department of Agriculture and still give the Federal Trade Commission the right——

Miss RANKIN (interposing). Yes; the right to investigate and especially the right to investigate other industries. You can see where it would be a great handicap to the Federal Trade Commission to get to a certain place and find that the packers were interested in a subordinate way, and that they were not able to go on with the investigation.

Mr. TINCHER. Is there something in some Senate amendment which does that?

Miss RANKIN. Yes; Senate amendment to section 406, I think it is. It is on page 30, amendment No. 16.

Mr. ASWELL. I think I am safe in saying that neither the committee nor the House intended to remove authority from the Federal Trade Commission over all other industries.

Miss RANKIN. You can see that if they are not allowed in any way to investigate the packers, that investigating, for instance, a question of rice or shoes or cheese or something of that kind, they would get just to a certain place and then they would have to stop; and they ought to be allowed to go in without any authority from any other board, and I think that the House ought to be able to ask an investigation whether the Senate is interested or not, and the Senate ought to be able to ask an investigation whether the House is interested or not.

Mr. KINCHELOE. The position, I am sure, that the committee all took and the conclusion they finally came to was based on two propositions: They thought that the regulation of these packers ought to be under the Secretary of Agriculture because of the fact that there are thousands of employees of the Bureau of Animal Industry already in the yards.

Miss RANKIN. Yes.

Mr. KINCHELOE. And they thought for that reason the power ought to be delegated to the Secretary of Agriculture. So far as I am concerned, the reason I voted for the bill depriving the Federal Trade Commission of further supervisory power was to avoid a conflict of authority and to center responsibility absolutely in one branch of the Government. My idea was that if the Secretary of Agriculture had inquisitorial powers and the Federal Trade Commission also, they could pass the buck back and forth to one another, and I wanted to regulate the packers.

Miss RANKIN. Yes; but do you not see the difficulty?

Mr. KINCHELOE. I understand that, and, further, I am sure it was never the intention of this committee to ever deprive the Federal Trade Commission of its power to investigate propositions like you have illustrated here.

Miss RANKIN. I did not think so.

Mr. ASWELL. I doubt if the bill would do so. Do you think it would?

Miss RANKIN. Yes; I think it would.

Mr. TEN EYCK. We discussed that matter at the time and came to the conclusion: If an automobile concern bought leather that came from the packers that no provision in this bill would prevent the Federal Trade Commission from investigating the automobile industry if they wished to do so, from any standpoint, leather or anything else, so far as this bill is concerned.

Miss RANKIN. We felt certain that that was the attitude of the committee.

Mr. KINCHELOE. Absolutely, and so far as I am concerned, if there is anything necessary to clarify it, I am for it.

Miss RANKIN. That is what we are asking to-day. We are asking that you pass a concurrent resolution saying that this shall be interpreted to mean just that, and in that way, it will clear it up so that there will not be any question as to whether the Federal Trade Commission can go into these other things or not.

The CHAIRMAN. Miss Rankin, are you discussing amendment No. 16?

Miss RANKIN. Yes; I think that is it.

The CHAIRMAN. Under that Senate amendment, the commission would have no authority to summon witnesses or to swear witnesses or call for the production of books.

Miss RANKIN. Yes; it would not have that power.

The CHAIRMAN. Do you not want them to have some power to investigate?

Miss RANKIN. Yes; we want the Federal Trade Commission to have all power over other industries.

The CHAIRMAN. But you take it away from them. You simply say they may investigate. I am now talking about Senate amendment 16.

Miss RANKIN. What we are asking for——

The CHAIRMAN (interposing). That amendment reads:

And except when the Secretary of Agriculture, in the exercise of his duties hereunder, shall request of the said Federal Trade Commission that it make investigations and report in any case.

Now, if you turn——

Miss RANKIN. Yes; I see I am wrong about that.

Mr. KINCHELOE. That really gives the commission this power.

Miss RANKIN. Under the direction of the Secretary of Agriculture but not the power under their own direction.

The CHAIRMAN. I want now to call your attention to sections 6, 9, and 10, the sections that have been made applicable to the act, and which take away from the commission that power.

Miss RANKIN. That is the one I am referring to. I simply looked at it hurriedly. We are asking for this concurrent resolution to say that this bill shall not take away from the Federal Trade Commission the power that it already has.

Mr. TINCHER. This bill is still in conference, and it would hardly be necessary to have a concurrent resolution. The language of the bill can be clarified in conference.

Miss RANKIN. Yes; this is a concurrent resolution asking the conference committee to do this. Is that proper procedure?

Mr. ASWELL. I never heard of any such procedure as that. Why do you not see the conferees.

Mr. KINCHELOE. Of course, your idea is to show the sentiment of the committee to the conferees.

The CHAIRMAN. Let me say for the conferees that the Senate has amended the bill by 20 amendments, and it is clear to everybody that at least 15 of them will have to go out, and we have been trying to clarify those amendments so as not to weaken the bill, but about 15 of them weaken the bill, and there are 5 or 6 of them that simply reinstate what is already in the bill or in existing law. We have said, "If you want to repeat, very well, we do not object to that; it is unnecessary, but will do no harm." Here is one of the amendments, and we have tried to shape it in such form that it might mean something after it is put in the bill, and anything that the conferees can do to strengthen the bill will be done, but here you bring up new matters now——

Mr. KINCHELOE (interposing). Mr. Chairman, would it be any violation of confidence to ask you as one of the conferees if this matter has been under consideration by the conferees.

The CHAIRMAN. It has been under consideration by the conferees and by the committee. The committee by vote instructed the subcommittee to report the bill back giving to the Secretary of Agriculture exclusive jurisdiction.

Mr. ASWELL. Why could not these ladies who have the matter at heart and who are not trying to agitate something, but trying to get justice, appear before the conferees and talk to them about it.

The CHAIRMAN. The conferees are powerless because they are asking for new legislation.

Mr. ASWELL. Can not the conferees straighten this matter out?

The CHAIRMAN. They have no jurisdiction.

Mr. TINCHER. What new legislation are they asking for?

Mr. SINCLAIR. It seems to me the conferees can put this on in conference.

Mr. TEN EYCK. What they are trying to do is to clarify a condition rather than to have new legislation. They merely want to clarify it.

The CHAIRMAN. But the situation is that both bills terminate the power of the Federal Trade Commission, and it is not within the power of the conferees to reinstate that in conference.

Mr. TEN EYCK. But you have a right to clarify the situation.

Mr. KINCHELOE. Mr. Chairman, if I understand Miss Rankin's contention it is that of course, both the bills do terminate the power of the Federal Trade Commission to regulate the packers, but if I understand the matter, the thing that she and her organization wants is something entirely different. They are not interested, in other words, in the provision which forbids the Federal Trade Commission from regulating the packers, but they are afraid that it will forbid the Federal Trade Commission from regulating other matters, if I understand it, and she simply wants a clarification of that proposition.

The CHAIRMAN. We are regulated by the rules, and as I have stated, if you are in favor of that amendment—if so, evidently, it would have to be clarified—but I understood you to say that you were not satisfied with the amendment.

Miss RANKIN. No; we are not.

Mr. ASWELL. Why can not the conferees strike out that amendment and submit another amendment?

The CHAIRMAN. The conferees can not offer amendments.

Mr. KINCHELOE. What is the number of that amendment?

The CHAIRMAN. No. 16.

Mr. TINCHER. Let me see if this is within the parliamentary possibilities, because maybe I am wrong about it. We will assume there is something wrong with amendment 16 and the House conferees are willing to correct it. If I know anything about the procedure, they can come back to the House and Mr. Haugen would move that the House recede and concur in Senate amendment 16 with an amendment.

The CHAIRMAN. With a germane amendment.

Mr. TINCHER. With an amendment.

The CHAIRMAN. No; with a germane amendment.

Mr. TINCHER. If it is about the regulation of the powers of the Federal Trade Commission it will be germane.

Mr. KINCHELOE. There is no question but what that would be in order if the amendment they are offering is germane to the section.

Mr. TINCHER. That is what I say. Miss Rankin, was the way the bill passed the House, in so far as it pertains to the powers of the Federal Trade Commission, satisfactory to your organization?

Miss RANKIN. At first we thought it was, and then we thought there was a possibility it did mean that the Federal Trade Commission could not go into investigations for these other purposes, and that, of course, it would be denying them the right to investigate the packers, and so we thought that if we had this concurrent resolution that would make it perfectly clear, and then, of course, the Senate amendments do take that power away more definitely. Mrs. Costigan is here and would like to speak about this matter.

Mr. VOIGT. The Senate did not take any of the Federal Trade Commission's powers away, as I understand it.

Miss RANKIN. You do not think so?

Mr. VOIGT. Do you claim so?

Miss RANKIN. I would like you to hear Mrs. Costigan.

STATEMENT OF MRS. EDWARD P. COSTIGAN, CHAIRMAN OF THE FOOD SUPPLY AND DEMAND COMMITTEE OF THE NATIONAL LEAGUE OF WOMAN VOTERS.

Mrs. COSTIGAN. As we understand it, the Senate amendment which said the Federal Trade Commission could not make investigations unless asked to do so by the Secretary of Agriculture left them in the position that no one could ask them to do anything except the Secretary of Agriculture without further legislation. That would deprive either branch of Congress from asking investigation, and we do not see why our Representatives, who are representing the people, should cut off their own privilege of asking for an investigation.

Mr. CLARKE. Mrs. Costigan, do you not think the bill as it is now vests in the Secretary of Agriculture sufficient power to do everything that really you want to accomplish yourselves in the way of investigating and supervising the packers? Do you not think they go that far?

Mrs. COSTIGAN. The Secretary of Agriculture has the power.

Mr. CLARKE. They already have the machinery and have their employees there, as I understand it, so that this is just simply an enlargement of his powers.

Mrs. COSTIGAN. And they would have the power to ask the Federal Trade Commission to investigate, but we are very much afraid that if there should be a Secretary of Agriculture who, perchance, did not care to make sufficient investigations, the people would not be safeguarded unless the Federal Trade Commission——

Mr. CLARKE (interposing). You must keep your faith in your Government after all.

Mrs. COSTIGAN. We do; absolutely.

Mr. ASWELL. Congress would still be in existence and they could force them.

Mrs. COSTIGAN. That is why we want you to have the unrestricted power to do that.

Mr. VOIGT. Mrs. Costigan, if it had not been for the Senate amendment—you know the Senate put on an amendment which I think is No. 16——

Mr. VOIGT. I do not think you could compel him to do so. You could urgently request him, but suppose you had a Secretary that did not feel inclined to investigate, and you ordered him to investigate, you would not get a satisfactory investigation.

Mr. KINCHELOE. That same principle would apply to the Federal Trade Commission, and if you are going to lose confidence in the power that is delegated to do this work, of course the structure of your whole bill falls flat. You say the Secretary of Agriculture might not do his duty, and at the same time the Federal Trade Commission, through change of personnel, and so on, might fail to do their duty; so you are right back where you started.

Mr. VOIGT. Miss Rankin, have you brought up the question of the incidental power to investigate?

Miss RANKIN. Yes.

Mr. VOIGT. At the risk of repetition, I want to say this——

Mr. KINCHELOE. I want to say that I am interested in that proposition.

Mr. VOIGT. I think the House bill as passed by the Senate is very faulty in this particular: If the Federal Trade Commission should investigate any subject in which the packers are interested, for instance, the subject of wool or hides or fertilizers, under the bill as it now stands, when the Federal Trade Commission investigates that subject, they can not make a complete investigation without investigating the activities of the packers with reference to that subject, and when they get to the packers' door they have to stop their investigation and call on the Secretary of Agriculture to make the investigation for them. I think that is a very vital omission in our bill.

Mr. KINCHELOE. I am interested in that proposition, and if there is any clarifying language needed, I am very much in favor of it.

Mr. HAYS. Mr. Chairman, permit me to say that if there is any vice in the bill of which Miss Rankin complains that vice is in the original bill as passed by the House, because the fact is that this Senate amendment enlarges, to some extent, at least, the powers of the Federal Trade Commission. The taking away of their power, if it is taken away, does not come by virtue of the Senate amendment but comes by virtue of the bill as originally passed by the House, and what I would like to know is whether your organization is complaining because of the restrictions put on the Federal Trade Commission under the original bill as passed by the House or is your complaint directed to the Senate amendment?

Miss RANKIN. To both, because we believe by saying under what conditions the Federal Trade Commission can investigate, that excludes other ways of initiating investigations.

Mr. HAYS. Frankly, I do not think you have any cause for complaint against the Senate amendment because that seems to enlarge the purpose of the bill.

Miss RANKIN. It does in one way.

Mr. HAYS. And the fault, if any, is in the bill as originally passed by the House.

Mr. ASWELL. The whole proposition seems to me to be this: Shall Congress turn over the control of the packers to the Department of Agriculture or to the Federal Trade Commission? It can not

requiring an investigation by the Federal Trade Commission, because when you pass a resoultion that is an action of Congress.

Mr. KINCHELOE. Congress could repeal this act.

Mrs. COSTIGAN. But as the law now stands either branch of Congress can ask for such an investigation without the concurrence of the other House.

Mr. TINCHER. This would not change that portion of the law.

Mrs. COSTIGAN. You do not think it would?

Mr. ASWELL. Certainly not.

Mr. TINCHER. It could not affect that law.

Mr. KINCHELOE. I think that you ladies are unduly alarmed about this matter. I know we want to regulate these packers and do it effectively, and at the same time not destroy the business, and there is not anybody more anxious to do that than I am. Personally, I never saw but one of them in my life.

Mr. TINCHER. I think that most of the Senate amendments were put in in a haphazard way, and I was in doubt, part of the time while this bill was being considered in the Senate, whether some of the Senators had read the bill; but this one I am inclined to think was probably an improvement, because it gives the Secretary of Agriculture power to go down to the Federal Trade Commission and say, "I am doing so-and-so to the packers and you have certain machinery and I want you to make this investigation for me." It is pretty drastic legislation, and gives him a good deal of power, but being friendly to packer regulation I have not any particular fault with it. I will say to you, candidly, that if it did infringe upon the rights of Congress to go ahead and have an investigation, I would be just like you are and would want to change it.

Mr. ASWELL. May I ask, Mr. Tincher, what specific language in this amendment causes Miss Rankin and her associates to believe that Congress has sacrificed the right of either branch to investigate anything?

Mr. VOIGT. Let me answer that question. The House of Representatives under that bill can not order the Federal Trade Commission to investigate the packers without the consent of the Senate; neither could the President order an investigation without the consent of Congress.

Mr. ASWELL. On what do you base that statement?

Mr. VOIGT. Because the Federal Trade Commission's power to investigate is cut off by the bill, and then it is provided that the Secretary of Agriculture may call on the Federal Trade Commission to investigate.

Mr. ASWELL. Just at that point——

Mr. VOIGT. Let me finish, please. The vice in the Senate amendment is that if you get a Secretary of Agriculture who does not want to investigate it is left within his hands to say whether the Federal Trade Commission shall investigate or not.

Mr. ASWELL. Just at that point, could not the House of Representatives, in case you had a Secretary of Agriculture of that type, pass a resolution directing and compelling him to act immediately?

Mr. VOIGT. You could pass a resolution requesting him to act.

Mr. ASWELL. No; you could compel him to act, or order him to act.

Mr. VOIGT. I do not think you could compel him to do so. You could urgently request him, but suppose you had a Secretary that did not feel inclined to investigate, and you ordered him to investigate, you would not get a satisfactory investigation.

Mr. KINCHELOE. That same principle would apply to the Federal Trade Commission, and if you are going to lose confidence in the power that is delegated to do this work, of course the structure of your whole bill falls flat. You say the Secretary of Agriculture might not do his duty, and at the same time the Federal Trade Commission, through change of personnel, and so on, might fail to do their duty; so you are right back where you started.

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Mr. HAYS. And the fault, if any, is in the bill as originally passed by the House.

Mr. ASWELL. The whole proposition seems to me to be this: Shall Congress turn over the control of the packers to the Department of Agriculture or to the Federal Trade Commission? It can not

turn it over to both of them and we have to decide that question one way or the other.

Mrs. COSTIGAN. But you can leave the present powers of the Federal Trade Commission in the hands of the Federal Trade Commission.

Mr. VOIGT. There is this additional proposition. The Federal Trade Commission investigates any subject matter in which the packers are incidentally interested——

Mr. ASWELL. But you are assuming——

Mr. VOIGT. Just let me finish, please. They can not complete their investigation without calling on the Secretary of Agriculture. I think that the House bill has dealt a blow to the Federal Trade Commission which was never intended by this committee, and I want to say that I, for one, am willing to go the limit in order to rectify that fault in the bill.

The CHAIRMAN. Mr. Voigt, what is your objection?

Mr. VOIGT. We have taken away the power of the Federal Trade Commission over subjects in which the packers are also interested with other business men or business corporations.

The CHAIRMAN. The committee by almost unanimous vote ordered that.

Mr. VOIGT. That point was never brought up in this committee while the bill was under discussion.

Mr. CLARKE. What point is that?

Mr. VOIGT. The point that we have taken away the power of the Federal Trade Commission over lines of business which are not directly packer concerns.

Mr. CLAGUE. You mean for purposes of investigation?

Mr. VOIGT. Yes. We have taken away that power from the Federal Trade Commission and I am sure this committee never intended to do that. That point was never raised in this committee. I am sure that if it had been, I never would have consented to it, and I want to do what I can to rectify that mistake.

Mr. SINCLAIR. Mr. Voigt, can that be amended by writing a new amendment in the conference committee or can that not be done?

Mr. VOIGT. I have been seeking some light on that subject and the conferees could frame an amendment to this section, but I am informed that it would be subject to a point of order as being new matter. So that if any one raises the point, the only way you could get that matter into the bill in its present form would be by a joint resolution of both Houses.

Mr. KINCHELOE. Let me ask you a question right there, Mr. Voigt, because I know you are a good lawyer and I have confidence in your judgment. You know that it is a frequent practice for the conferees to come back with a bill and move to concur in a certain amendment with an amendment. That is always in order under the rules of the House provided the amendment which they offer is germane.

Mr. VOIGT. That is the idea exactly.

Mr. KINCHELOE. In your opinion, in order to clarify this proposition so that the Federal Trade Commission would not be barred from conducting these investigations about which you speak and the point which Miss Rankin has made, do you not think an amendment to this bill concurring with this amendment would be germane to this matter?

Mr. VOIGT. I am told by good parliamentarians that it would not be germane.

Mrs. COSTIGAN. That is our information.

Mr. CLARKE. Granting that the premise of the ladies is correct, and that we did get a Secretary of Agriculture who was very antagonisitc to the investigation of anything, there is always a remedy in Congress, if there is a real demand and there is some real trouble anywhere, and Congress certainly has it in its power to order such an investigation. That is my judgment about it.

Mr. KINCHELOE. But of course that does not touch the proposition that Mr. Voigt raises here.

Mr. VOIGT. Let me ask you this question, Mr. Clarke. Suppose the Federal Trade Commission should investigate the wool growing industry of this country. As you know, the packers handle a great deal of wool. They are not the only handlers of wool, but they handle wool to a large extent. When the Federal Trade Commission investigates that general subject, they can not complete their investigation without investigating the activities of the packers with respect to wool. Now, in that situation, would you be in favor of having the Secretary of Agriculture investigate the packers as to wool and turn his investigation over to the Federal Trade Commission, or would you be in favor of having the Federal Trade Commission make the entire investigation on that subject, including the packers?

Mr. CLARKE. Show me in the bill where the thing works out in that way.

Mr. VOIGT. Oh, everybody concedes that.

Mr. ASWELL. Let me ask you this question, which I have started to ask you three times, Mr. Voigt. Suppose the Federal Trade Commission is investigating the sugject of wool, do you believe that there would be any doubt but what the Secretary of Agriculture would step in and say, "Take my part, too, and go ahead with all of it." The Secretary of Agriculture has the full right to do that, and do you think that we are every going to have a Secretary of Agriculture who would be so crooked and worthless and such a nonentity as to stand in the way of that investigation?

Mr. VOIGT. He might or might not.

Mr. ASWELL. Of course, the whole Government might fail, and I conceded that he might, but I do not suppose he would last long if we had such a man as that in office.

Mr. VOIGT. He might say, "I will make the investigation for you," and then might not make the investigation in the same way that the Federal Trade Commission would make it.

Mr. ASWELL. If we are going to doubt the agency to enforce this law, we had better not have any bill at all.

Mrs. COSTIGAN. Mr. Chairman, I do not want to take the further time of the committee, but I have a brief statement for the National League of Woman Voters which I will file with the secretary as evidence of their position.

(The statement referred to follows:)

STATEMENT OF MRS. EDWARD P. COSTIGAN, CHAIRMAN OF THE FOOD SUPPLY AND DEMAND COMMITTEE OF THE NATIONAL LEAGUE OF WOMEN VOTERS.

For three years the National League of Women Voters has indorsed legislation calling for effective regulation of the meat-packing industry and has supported the Federal

Trade Commission as a highly important governmental agency for the discovery and prevention of unfair trade practices.

The women are informed upon this subject and protest against any action by Congress that will impair the usefulness of the Federal Trade Commission.

We are convinced that House bill 6320 as passed by the House and amended by the Senate does take from the commission power to investigate numerous industries other than meat packing in which the large packers are concerned as well as that industry, and we see no reason why this should be done.

The bill also takes from either branch of Congress its power to order investigations by the Federal Trade Commission concerning business in which the packers are engaged. Why should the men who directly represent the people curtail their own power to initiate action?

The restoration to the Federal Trade Commission of its power will in no wise embarrass the Secretary of Agriculture in his jurisdiction, unless and in case the Secretary should be disinclined to proceed properly to regulate the packers. In that case the people would be safeguarded by the power lodged in the Federal Trade Commission.

The League of Women Voters is therefore joining in the request that this committee shall instruct its chairman to introduce into the House a concurrent resolution instructing the conferees to restore to the Federal Trade Commission its present power.

We believe this is as important as the passage of a packer control bill.

Mr. MARSH. Mr. Chairman, on behalf of the Farmers' National Council, may I be heard a minute?

The CHAIRMAN. Mr. Voigt made the statement that the committee had not passed on this matter. I will read the resolution which was passed instructing the subcommittee:

Mr. Aswell moved that the entire jurisdiction be placed in the Secretary of Agriculture.

That is the instruction that the committee gave.

Mr. TINCHER. That was when we decided whether we would put it under the Federal Trade Commission or under the Secretary of Agriculture.

Mr. VOIGT. That is not the point I am raising at all.

Mr. SINCLAIR. No; that is not the real point we are raising here. The question is as to investigating the subsidiary lines of trade that the packers engage in.

The CHAIRMAN. The bill provides that the Secretary of Agriculture may cooperate with other agencies, and it is believed that that is taken care of, but there seems to be a difference of opinion.

What is the pleasure of the committee?

Mr. ASWELL. There is nothing pending on this matter.

The CHAIRMAN. They asked for 15 minutes and more than 15 minutes has been consumed now.

Mr. LYMAN. I would like to make a very short statement, Mr. Chairman.

Mr. ASWELL. Mr. Chairman, we have met this morning to discuss the filled milk bill, and I move that we have the hearings on that bill.

Mr. CLARKE. I second that motion.

Mr. MARSH. May I make a request, Mr. Chairman?

(The motion having been duly seconded, prevailed.)

Mr. MARSH. Mr. Chairman, may I have a minute in which to make a request?

Mr. CLARKE. We have our business before us; let us proceed, Mr. Chairman.

Mr. VOIGT. I move that Mr. Marsh be given two minutes in which to lay a request before the committee.

Mr. SINCLAIR. I second that motion.

(The motion having been duly seconded, prevailed.)

STATEMENT OF MR. BENJAMIN C. MARSH, OF THE FARMERS' NATIONAL COUNCIL, WASHINGTON, D. C.

Mr. MARSH. Mr. Chairman, we are here to make the request specifically——

Mr. ASWELL. Who are "we"?

Mr. MARSH. All those who are represented here and the list of the organizations which have signed this request, and as a second request we request specifically in view of the advice given us by the best parliamentarians and most experienced Congressmen and United States Senators as to the situation——

Mr. TINCHER (interposing). Who are they? Give us their names in the record.

Mr. MARSH. I will cite Senator Norris for one, who is quite an experienced parliamentarian, Senator Kenyon, and others.

Mr. TINCHER. Kenyon, Norris, and who else?

Mr. MARSH. As to this procedure——

Mr. TINCHER. Who are the others, because I want to look up the parliamentary law on this matter.

Mr. MARSH. Several experienced Senators and Congressmen, too. I think Mr. Voigt will agree that this is a possibility, and we suggest——

Mr. TINCHER (interposing). I want the names of the parliamentarians you have referred to. You have named three, Norris, Kenyon, and Voigt.

Mr. VOIGT. I disclaim being a parliamentarian.

Mr. MARSH. I do not force it upon you, but I so regard you.

Mr. KINCHELOE. You said that you had some opinions from Members of Congress, and you have given the name of two Senators——

Mr. MARSH. I have given the names of three Members.

Mr. HAYS. Mr. Chairman, this gentleman asked for 2 minutes' time and that has been granted to him, and I am not in favor of seeing all the time taken away from him by the members of the committee.

The CHAIRMAN. You may proceed for two minutes in addition to the time you have already had.

Mr. MARSH. Thank you. I will get a fresh start. It is an open question whether the conferees can, without a concurrent resolution of both branches of Congress, amend the pending Haugen bill, as amended by the Senate, so as to restore the present jurisdiction of the Federal Trade Commission to investigate the packers as to any matter. We therefore request of you, Mr. Chairman, as we requested before, that you introduce the concurrent resolution which Senator Norris, chairman of the Senate Committee on Agriculture, will introduce, to amend the bill as stipulated in these letters we have submitted to you specifically, and to restore the present jurisdiction of the Federal Trade Commission to investigate the packers, not to supervise the packers but to investigate the packers, so there will be no conflicting jurisdiction.

I make this point: If in the opinion of any Member of Congress that power is vested and retained in the Federal Trade Commission under this bill, then there can be no objection whatever to the adoption of such a concurrent resolution, and putting to the Members of Congress this matter by direct vote will make it very clear whether or

not each Congressman and United States Senator voting on this concurrent resolution desires to retain the present jurisdiction of the Federal Trade Commission for investigation, and only by adopting this concurrent resolution and by adopting such an amendment to the pending Haugen bill are we assured of retaining the present jurisdiction of the Federal Trade Commission; and with all due deference, Mr. Chairman, no Secretary of Agriculture, with possibly one or two exceptions, during the last few years, has proven himself a man fearless and capable to handle the big financial interests, of which the packers are merely a part, as is the Federal Trade Commission. The American people trust the Federal Trade Commission and they do not want to see Congress, at the behest of any big combination of capital or business, impair the present powers of the Federal Trade Commission, and we put it straight up to Congress.

Mr. ASWELL. The time is up, Mr. Chairman.

The CHAIRMAN. I understood you to say that if there was such a resolution introduced there would be no trouble about passing it.

Mr. MARSH. I did not say that.

The CHAIRMAN. What did you say?

Mr. MARSH. I said that if the chairman does introduce a resolution by vote of this committee, and I understood you to say you wanted to put it to a vote of this committee——

Mr. ASWELL. When did he say that?

Mr. MARSH. In a private talk that several of us had with him a week or so ago, if my recollection is correct.

The CHAIRMAN. I said that it was a matter for the committee and House and Senate to decide. There is no chairman running things here.

Mr. MARSH. Yes; you suggested that you would like to put this matter up to the House Committee on Agriculture.

The CHAIRMAN. I said that if it was to be taken up it would have to be taken up by the committee, and that it was a matter for the committee to decide.

Mr. ASWELL. Did the chairman tell you that he would like to take it up?

Mr. MARSH. May I make that clear?

The CHAIRMAN. I said that if it was to be taken up, that would have to be determined by the committee in the regular way.

Mr. MARSH. I would like to make that clear, because I was trying to be too brief, perhaps. We asked the chairman to introduce this resolution, and he said that instead of doing that he would like to take it up with his committee. I did not make myself clear before. He did not say he wanted the resolution. I did not mean to say that, but before he put in the resolution he wanted to place the matter before the committee. We are glad to have the issue raised, Mr. Chairman, because it is a very clear issue between the Federal Trade Commission and the big predatory interests. I thank you very much, Mr. Chairman.

Mr. VOIGT. I just want to take this opportunity of going on record as favoring your move, so there will be no question about my attitude.

Mr. MARSH. Having recently been in the State of Wisconsin and several other States, and as I am going to the Pacific coast next month to hold meetings in 12 States, I want to assure you that the people of America are mightily in favor of retaining the jurisdiction

of the Federal Trade Commission as it exists to-day with reference to the packers who for 12 years have defeated any legislation in Congress, and we never would get it if the Federal Trade Commission had not fearlessly gone ahead and gotten this information, and we do not want to see them crippled or the people will lose faith in the Government.

The CHAIRMAN. Now, Mr. Marsh, tell us just what you want.

Mr. MARSH. We want the Federal Trade Commission——

The CHAIRMAN. Do you want a duplication of authority?

Mr. MARSH. I do not want duplication of authority.

The CHAIRMAN. You do not want duplication of authority?

Mr. MARSH. We do not ask for the slightest power of supervision over the packers by the Federal Trade Commission. That is vested under the bill in the Secretary of Agriculture, and we are not discussing the feasibility of that. That is already vested in the bill under the Secretary of Agriculture and let it rest there.

The CHAIRMAN. Now, what do you want?

Mr. MARSH. Section 406, A and B, and the additional Senate amendment No. 16 end the jurisdiction of the Federal Trade Commission and ends its power to investigate at the request of either branch of Congress so far as the packers are concerned. We want that power restored to the Federal Trade Commission which, let us concede, inadvertently was taken away from it.

The CHAIRMAN. You mean you want that power restored to Congress.

Mr. MARSH. We want the present condition under which either Congress or the Federal Trade Commission, on its own initiative, and on complaint, may investigate the packers.

The CHAIRMAN. That provides, then, for dual power and gives them the power to go on and investigate and report and order them to cease and desist.

Mr. MARSH. The only ones afraid of such an investigation are those who have cause to fear the result of the investigations which the Federal Trade Commission would make.

The CHAIRMAN. Please answer the question.

Mr. MARSH. I am answering the question and I elect to answer it in my own way.

The CHAIRMAN. But answer the straight question. I ask you, first, do you want duplication of power.

Mr. MARSH. I do not want—now, you are going to give me time to answer?

The CHAIRMAN. I want you to answer the question.

Mr. MARSH. If you ask me a question, I am going to elect how I am going to answer it.

The CHAIRMAN. I want you to answer the question.

Mr. MARSH. I will answer the question, but I am going to give my own answer and I am not going to be cut off in my answer. If you want my answer I will give it to you.

The CHAIRMAN. You refuse to answer the direct question?

Mr. MARSH. I resent that, because it is inaccurate.

The CHAIRMAN. We have your own words for it.

Mr. MARSH. I will answer the question and I will answer it in my own way.

The CHAIRMAN. The record will show your answer.

Mr. CLARKE. Mr. Chairman, we opened up this matter for two minutes, and now it seems that it is going to take two hours.

Mr. SINCLAIR. I think it is simply a question of restoring the present power of the Federal Trade Commission to investigate.

The CHAIRMAN. His answer is in the record.

Mr. MARSH. My answer is not complete, and I will ask the secretary to strike it out unless I am permitted to complete it.

The CHAIRMAN. It is in the record; let it stand there.

Mr. MARSH. Will you kindly note the statement that Mr. Marsh's answer is not complete and he declines to let it stand as an answer because the chairman would not permit him to make a complete answer?

The CHAIRMAN. Go ahead and make your answer. The committee is running this.

Mr. MARSH. Surely; but a witness has a right, if he is granted a hearing, to answer the questions. Will you repeat your question?

The CHAIRMAN. The first question is, Do you want a duplication of power?

Mr. MARSH. I do not want a duplication of power and am not asking it. I do want——

The CHAIRMAN. All right.

Mr. MARSH. Wait a minute. I do want to retain the power in the Federal Trade Commission on its own initiative or under the direction of either branch of Congress to investigate the packers, for we do not trust the Department of Agriculture, not because of the fact that the packers have controlled it so long but because of the fact that it is not equipped to make the thorough investigation which may be needed to be made from time to time, and anybody—let me finish, please—and anybody who objects to retaining that same power in the Federal Trade Commission to-day of investigation can not be construed as friendly to the welfare of the American people.

The CHAIRMAN. Now, what power do you want with the Secretary?

Mr. MARSH. The Secretary of Agriculture?

The CHAIRMAN. Yes; you want that power eliminated?

Mr. MARSH. I do not. I am not interfering with the bill in that respect.

Mr. TINCHER. Just a moment. I want to make a little observation here because I do not know whether I understood you or not. Do you mean to say to this committee of Congress that the packers have controlled the Department of Agriculture?

Mr. MARSH. I mean to say to this committee of Congress that the packers have for a long time been in control of the Department of Agriculture, and the Standard Oil, of which they are a part, and I will be glad, Mr. Chairman——

Mr. TINCHER (interposing). And you mean to say they are in control now?

Mr. MARSH. And for Mr. Tincher's information I will be glad to send you a statement made by Dr. W. J. Spillman, when he was ousted from the Department of Agriculture at the instance of the Standard Oil Co. because he tried to get costs of production of live stock.

Mr. TINCHER. I have heard all that. That is past.

Mr. MARSH. That is past, but the Standard Oil is still here with all its power.

Mr. TINCHER. Do you mean to say that the Standard Oil Co. and the packers are in control of the Department of Agriculture?

Mr. MARSH. They were for a long time, and I have not seen them completely evicted as yet, although I admit that Secretary Wallace would like to do it.

Mr. TINCHER. That is what I am getting at. Mr. Wallace is Secretary of Agriculture. I want to know if you are charging that the Department of Agriculture is in the control of the Standard Oil Co. or the packers.

Mr. MARSH. When I see Wallace's Farmer come out, as it did just recently, stating that the farmers have more to fear from leaders of labor than from leaders of finance and business, I am a little bit fearful.

Mr. CLARKE. Well, put this in the record, that I am more in fear of the farmers suffering at the hands of such ultra socialists as you than I am from anybody else in the world. I have written to my own farm organizations out in my State saying that it would be a curse to them to have such a man as you, who has no confidence in anybody, who has no confidence in his Government, who is charging our public servants with being corrupt, in conspiracy with Standard Oil, in conspiracy with the packers, all of them in cahoots to defeat you and that you are the only holy and righteous man in the world—that it would be the biggest curse to them to be represented by such a man before this committee.

Mr. MARSH. I am glad to say, Mr. Chairman, that I hold myself responsible to the farm organizations that elected me, and not to any Member of Congress.

Mr. CLARKE. Let him just report that to his own employers, who are not the real farm organizations, but the Federation of Labor out in Denver.

Mr. MARSH. Mr. Chairman, that is not correct——

Mr. TINCHER. Mr. Chairman, I want to go on record as refusing to take as conclusive that charge of the gentleman from—where do you live?

Mr. MARSH. I make my home here in Washington.

Mr. TINCHER. From Washington—that the Department of Agriculture as it is now constituted is under the absolute control of the packers or Standard Oil.

Mr. MARSH. I did not make that charge.

The CHAIRMAN. The committee will be in order.

Mr. SINCLAIR. I want to go on record, though, as favoring the retention of the Federal Trade Commission control of the packers.

Mr. TINCHER. Mr. Chairman, I make a motion that we hear Mr. Lyman for two minutes.

The CHAIRMAN. Without objection the committee will hear Mr. Lyman.

STATEMENT OF MR. CHARLES A. LYMAN, SECRETARY NATIONAL BOARD OF FARM ORGANIZATIONS, 1731 I STREET NW., WASHINGTON, D. C.

Mr. LYMAN. Mr. Chairman, I am secretary of the National Board of Farm Organizations, of which Mr. Charles S. Barrett, president of the National Farmers Union, is the chairman. He signed the letter which we put out and sent to all Members of Congress on July 8, asking for the very thing which Miss Rankin and Mrs. Costigan have asked for.

Another thing I wanted to say in that connection was that Maurice McAuliffe, president of the Farmers' Union out in Kansas, signed this letter also and is very much in favor of it. And yesterday two other Farmer Union leaders came to the committee room, one of them, Mr. T. A. Hougas, the president of the Farmers' Union of the State of Iowa, and the other one, Mr. J. W. Batcheller, president of the South Dakota Farmers' Union, and met Mr. Haugen and said that they were very much in favor of restoring the powers of the Federal Trade Commission.

The point I want to make here again—because I do not think you have all understood our thought—is that we do not ask in this bill for jurisdiction by the Federal Trade Commission of the administration of the act. We do want to have the Federal Trade Commission in the background, so that either branch of Congress or the Attorney General or the President can, when desirable, order the Federal Trade Commission to make an investigation. It is very true that Congress can pass a new law and order the Federal Trade Commission to make an investigation, but sometimes the House can pass a resolution which the Senate does not favor. Under your plan now, under this bill, if it finally is enacted, you will have to pass a new law, which will have to be passed by both Houses of Congress and then signed by the President. I think you will admit it is much easier for the House to pass a resolution than it is for the House and Senate together to pass a resolution and the President then sign it. We do not ask for any administration by the Federal Trade Commission, but we do want them to stand in the background, so that either branch of Congress or the President or the Attorney General can order an investigation.

Mr. KINCHELOE. Let me ask you a question right there, as to the procedure in order to bring about this result. Do you not think it would be better for us to go on and let us pass this bill, because I am frank to say to you that in my judgment if you have too many packers' bills before the Senate again you are not going to get any of them. Now, as to the procedure, would it not be a better idea to get the conferees to pass this bill, and then if there is any remedial legislation required let it come by concurrent resolution?

Mr. LYMAN. No, sir. I think if you pass this in the way it is now, or the way you may agree in conference, and take away the right of the Federal Trade Commission, it may be 10 years or 15 years before you can get that right back again.

Mr. KINCHELOE. The question is the other way, whether the conference can bring in such an amendment as you suggest that will not be subject to a point of order.

Mr. LYMAN. It is simply that the conferees, under their rules of procedure, can not get this thing threshed out the way we want it. If they would make the recommendation to either branch of Congress, asking for instructions to do that thing, we believe that that recommendation would carry so much weight that there would be no doubt about it.

Mr. KINCHELOE. Do you not think that is a matter that you should address to the conferees?

Mr. LYMAN. We have addressed a letter to you, and that was our purpose in coming here——

Mr. KINCHELOE. But have you ever been before the conferees?

Mr. LYMAN. No, sir; I did not know that they would hold any open meetings at all. We would be very glad to appear before them if we could have the opportunity.

Mr. SINCLAIR. You are not advocating any conflict of authority at all, are you?

Mr. LYMAN. No, sir; we are not.

Mr. SINCLAIR. You are willing that the Secretary of Agriculture should have jurisdiction in the administration of the law, but you believe the Federal Trade Commission should retain the power they now have of the investigation of all the subsidiary industries which the packers do control?

Mr. LYMAN. Exactly; and, Mr. Congressman, we want either branch of Congress, independent of the other, to exercise the power which it now has of ordering, if necessary, an independent investigation in case anything might be going wrong in the Department of Agriculture.

The CHAIRMAN. Mr. Lyman, let me see if I understand you. You say you want the power granted to the Federal Trade Commission restored?

Mr. LYMAN. Yes, sir; we want the present power of the Federal Trade Commission retained by it——

The CHAIRMAN. Well, that answers the whole thing. I wanted to know whether I was clear on that.

Mr. LYMAN. May I hear you state the question again, please? I want to understand just what that question is.

The CHAIRMAN. Do you want the power granted to the Federal Trade Commission—the power which it now has—restored?

Mr. LYMAN. Yes, sir; absolutely restored.

The CHAIRMAN. In whole?

Mr. LYMAN. Yes, sir; in whole.

The CHAIRMAN. Well, if we do that the commission will then go on and investigate and report, and the secretary may do the same thing. It has the power under the bill. Therefore you will have that dual power.

Mr. HAYS. But you said the commission might go on and make this investigation and supplement that with an order to cease and desist from those practices. That is the very thing these people are not asking for.

The CHAIRMAN. But they want the whole power restored, which includes power and order to cease and desist.

Mr. LYMAN. Let me explain again. At the present time the Federal Trade Commission is not making any investigation of the packers, and it has never had any administrative jurisdiction over

them, and we do not now ask that it have. We are zealous of the prerogatives which you as a House of Representatives now possess of ordering the Federal Trade Commission at any time to make an investigation and to give publicity. We are zealous of that, and we do not like to see you surrender your authority, because in this bill you do surrender it and make it necessary for you to get the Senate to pass the same measure that you pass, and then for the President to sign the bill which you pass. At the present time the House can, independently of the Senate or of the President, order an investigation by the Federal Trade Commission.

Mr. TINCHER. Let me see if I understand you. We have had the Federal Trade Commission acting for a number of years. We have had several investigations during that time and exhaustive reports made by the Federal Trade Commission. To what extent that influences Members of Congress I am not able to state, but to some extent that influenced Members of Congress in passing the law placing the regulation of the packers under the Department of Agriculture—not as a reflection upon the Federal Trade Commission, because the personnel of the Federal Trade Commission have told me that they have not had regulatory powers.

Mr. LYMAN. That is true; and we do not now ask that the Federal Trade Commission shall have such regulatory powers.

Mr. TINCHER. I will say that one member of the commission told me that probably if we are going to regulate the packers it would be better to do it through some other department of the Government. Now, as I understand it and as I think the House understood the bill when we passed it, we were giving the Secretary of Agriculture power to make any investigations necessary for the enforcement of this law in the regulating of the packers. The complaint has come up here, since it left here, that people fear that would deprive the Federal Trade Commission of some of their investigating powers, and it was thought well to amend the language of this law; and the Senate, evidently acting upon that suggestion, evidently intending to strengthen the act, and not weaken it, added a paragraph giving the Secretary of Agriculture the power to use the machinery of the Federal Trade Commission in making investigations.

Mr. LYMAN. Yes, sir.

Mr. TINCHER. Now, then, I do not want to indulge in this presumption, which Mr. Marsh made a very clear statement on, that the Secretary of Agriculture will not be honest and will not either make an investigation himself or get the information that he needs, and that for that reason the power ought to be left in the Congress or in the Federal Trade Commmission itself to make this investigation separately and independently from the Department of Agriculture. And you advocate now holding up the passage of the packer law until we pass a joint resolution of the House and Senate restoring that power to the Federal Trade Commission?

Mr. LYMAN. Yes, sir; I do, unequivocably.

Mr. TINCHER. Well, suppose it goes over to the Senate and the joint resolution fails. Then you want the packer resolution, which we have struggled for here for 30 years, to fail, too?

Mr. LYMAN. Mr. Chairman, my answer to that is that we have found in the last few weeks that a great many Members of both the House and the Senate did not realize that they were surrendering the right

which they now have to order the Federal Trade Commission to make investigations of the meat-packing industry. We have found that repeatedly, and we believed that if this thing were called to the attention of this committee—that was our purpose in coming here, and that was our purpose in addressing the letter to you on July 8—we believed that if you saw that point there would be no question about restoring that right.

Mr. KINCHELOE. Let me ask your opinion about this matter. You do not subscribe to the statement of Mr. Marsh that the Secretary of Agriculture, the present Secretary and his predecessors, have been absolutely controlled by the Standard Oil Co. and the packers, do you?

Mr. LYMAN. No; I do not subscribe to that.

Mr. MARSH. I rise to a question of personal privilege, Mr. Chairman. I want to correct that statement.

Mr. KINCHELOE (interposing). I want to say to you that I am as strong a Democrat as there is in the House, and whenever they undertake to tell me that the Secretary of Agriculture or any other of the heads of departments of this Government are crooks and controlled by the interests and combines of this country I have no faith in it, and I have no admiration, but on the other hand, an extreme contempt for anybody that will insinuate it.

Mr. CLARKE. Amen.

Mr. LYMAN. Mr. Chairman, I would like to go ahead on that, because I do not want to repudiate all that Mr. Marsh said——

Mr. KINCHELOE. I am asking you about that statement; that is all I am asking you about——

Mr. TINCHER. I am afraid that one thing I said is not clear. While I differed with Secretary Houston and Secretary Meredith politically, I want to say that there was never in their administration of the Department of Agriculture anything that would lead me to any such conclusion, barring Mr. Marsh's statement concerning them.

Mr. LYMAN. In that connection, I do not want to repudiate all that Mr. Marsh said. He made a rather impulsive statement, but there are certain things therein that I will subscribe to.

Mr. ASWELL. But do you repudiate that particular point?

Mr. LYMAN. Yes, unqualifiedly; that he was dominated—that is a pretty broad statement. But I do think that the late Secretary of Agriculture, Mr. Houston, was quite largely dominated by the Rockefeller interests, because he was a member of the Southern Educational Board of the Rockefeller Foundation; and the Department of Agriculture for a long time used large sums of Rockefeller Foundation money, up to as much, I believe, as $660,000 a year in extension work, to teach what they thought was safe and sane agricultural economics. What they think is safe and sane is not what the bona fide farm organization of this country think is safe and sane and right for farmers to know.

I will subscribe to that part of his statement, and, furthermore, I would like to say that Chairman Haugen is well aware of the investigations that have been made by certain farm organizations, where detectives were put on the trail of certain men; and I do say this, that up to quite recently—I do not know what the condition is now, but up to quite recently certain divisions of the Department of Agriculture were honeycombed with men who were subservient to the packer influences. Whether they were the packers' men or not

is another question. Mr. Haugen himself can answer that and can substantiate what I have said as to the investigations made by W. T. Creasy, secretary of the National Dairy Union, who for a long time was chairman of the executive committee of our board.

Mr. KINCHELOE. I had reference, of course, to the Secretary of Agriculture; I do not hold any brief for all the department fellows under him.

Mr. LYMAN. I understand that, but there has been enough basis for some of the statements that Mr. Marsh made. I would not go so far as he did; I do not think the whole department has been dominated by the packers or the oil interests. I do think that these great interests are trying to dominate the Department of Agriculture.

Mr. CLARKE. Mr. Chairman, the gentleman has had his time here.

Mr. LYMAN. I am very much obliged. It is not necessary to ask me to stop. I am perfectly willing to stop.

Mr. CLARKE. You live right here in Washington, and we can get you any time. These other gentlemen have come from considerable distances.

Mr. LYMAN. I am very much obliged to you. It is not necessary to tell me to stop. I have covered what I had hoped to cover.

The CHAIRMAN. I would like to quote from the Federal Trade Commission act, just to show you where you are mistaken in your statement as to duplication of power. I will read just one sentence:

> If upon such hearing the commission shall be of the opinion that the method of competition is prohibited by this act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition.

You would have under the Secretary the power to order them to cease and desist from such practices, and you would have under the Federal Trade Commission the power to order them to cease and desist. Either the Secretary or the Federal Trade Commission might order an investigation, might make an investigation and report, and might order them to cease and desist. There would be a duplication of power. I want to get that cleared up.

Mr. LYMAN. Mr. Chairman, I say again that we do not want the Federal Trade Commission to exercise the administration over the packers. We do not.

The CHAIRMAN. You want the power restored?

Mr. LYMAN. We do not want the Federal Trade Commission to step in and investigate the packers, except when the public sentiment of this country demands it and sees that the Department of Agriculture is not doing its work faithfully and in accordance with the law and with its powers. We do want them to have at all times potential power, at the order of either branch of Congress or the Attorney General, or the President, to make an investigation and to give publicity.

The CHAIRMAN. How far do you want to go? What authority do you want them to have?

Mr. LYMAN. I want the Federal Trade Commission to go as far as it can under the law, and if necessary, amend the Federal Trade Commission acts so that it can go further—at the direction of the House of Representatives, for instance; at the direction of the Senate, for instance; at the direction of either the Attorney General or the President.

The CHAIRMAN. Do you want them to make an investigation and report?

Mr. LYMAN. And give publicity.

The CHAIRMAN. Do you want to give them the power to order them to cease and desist?

Mr. LYMAN. I do not know whether I do or not, as to that.

The CHAIRMAN. Well, that is the important question.

Mr. LYMAN. I have said all the time that we just want the Federal Trade Commission to have the potential power which it now has so that they can make an investigation and give publicity.

Mr. TINCHER. Would not that be accomplished by adding these words to the Senate amendment? I am sure everybody will agree this would be germane and effective:

Except when the Secretary of Agriculture, the House of Representatives, the Senate, or the President of the United States, in the exercise of their duties, shall request of the said Federal Trade Commission that it make investigations and report in any case.

Mr. KINCHELOE. I would suggest to the committee that we can thrash this out at another time.

Mr. TINCHER. Mr. Chairman, Mr. Marsh has stated to me that he would like the privilege of correcting his statement concerning the present Secretary of Agriculture.

Mr. MARSH. Not to correct my statement, but Mr. Tincher's inadvertent misunderstanding, which is unjust to me.

Mr. KINCHELOE. Just a minute. As far as I am concerned, I do not propose to be insulted by insinuations from Mr. Marsh any more, and I am against it.

Mr. MARSH. My protest is on record; the reporter has it.

(There is printed, as follows, report of a referendum conducted by the Farmers' Dispatch:)

To the honorable Members of the United States Senate and the House of Representatives and to all others whom it may concern:

This is to certify that in a referendum conducted by the Farmers' Dispatch, a total of 1,763 farmers expressed their opinions on 16 important questions of national legislative policy as follows:

Question.	Yes.	No.	Silent.
Do you favor commodity financing based on bonded warehouse receipts	1,307	146	310
Do you favor the development of a personal rural credits system with proper safeguards	1,570	64	129
Do you favor live-stock financing based on proper pledge of animals and feed	1,397	151	215
Do you request that authority be granted the Federal Reserve Board to so classify rediscounts as to give prior consideration to loans for basic production of all kinds	1,364	118	281
Do you favor increasing the limit on Federal land bank mortgage loans from $10,000 to $25,000	887	730	146
Do you favor asking Congress to submit to the States a constitutional amendment prohibiting the issuance of all tax-free securities	1,278	281	204
Are you in favor of continuing the excess profits tax	1,467	216	80
Are you opposed to the enactment of a general sales tax	1,317	259	187
Will you be able to move a materially larger amount of agricultural products if an adequate reduction in freight rates is secured	1,519	95	149
Do you favor building farm-to-market roads prior to the construction of transcontinental highways	1,406	217	140
Do you favor the Great Lakes-St. Lawrence waterway for transportation and other purposes	1,584	100	79
Do you favor other waterway development for transportation, reclamation and power at this time	1,005	459	299
Do you favor placing the packers under supervision by the Government, and the vesting of such authority in the Department of Agriculture	1,599	82	82
Do you favor legislation making illegal the practice of short selling and gambling in agricultural products	1,637	79	27
Do you favor truth-in-fabrics legislation	1,684	15	64
Do you favor enabling legislation for cooperative marketing	1,673	29	61

This referendum was taken through the publication of ballots containing these questions in the Farmers' Dispatch twice each week from May 31 to June 17, inclusive, during the farmers' busy season. Replies came chiefly from the States of Minnesota, Wisconsin, North Dakota, South Dakota, Montana, northern Iowa, and the upper peninsula of Michigan, in which the Farmers' Dispatch circulation is concentrated.

All ballots received and counted were signed with the names and addresses of the senders. The original ballots will be kept on file at the Farmers' Dispatch office for inspection by any person interested.

St. Paul, Minn., July 12, 1921.

E. E. CRAVEN,
Editor Farmers' Dispatch.

Attest:

LEO M. BATES, *Associate Editor.*

(Thereupon, at 10.40 o'clock a. m., the committee proceeded to the consideration of other business.)

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